



# Zoning Ordinance

*Adopted by:*

**The City Council**  
Martinsville, Virginia

*Effective date:*

**August 1, 2017**





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## ***I.* Administration and Enforcement**

### **A. Purpose and Intent**

The Zoning Ordinance of the City of Martinsville establishes standards and regulations for the use and arrangement of land, buildings, streets, and other public and private property and infrastructure, in order to promote the health, safety, and general welfare of the public and to implement the City's adopted Comprehensive Plan for the orderly future development of the City.

This Zoning Ordinance is designed to achieve the following goals and objectives for the benefit of those who live, work, visit, and own property in the City of Martinsville:

1. To promote the health, safety, and welfare of the citizens of Martinsville.
2. To provide for adequate light, air, convenience of access and safety from fire, flood and other dangers; and to reduce or prevent congestion in the public streets.
3. To provide for the future growth of the City in a way that is consistent with the efficient and economically sound use of public funds.
4. To ensure that the City's future growth does not adversely impact Martinsville's environmental quality or natural resources.
5. To promote the needs of housing, industry, and business in the City's future growth.
6. To promote the creation and expansion adequate highway, utility, health, education, and recreational facilities to serve the needs of Martinsville's citizens.
7. To protect against destruction of, or encroachment of incompatible uses and buildings upon, the City's historic areas and tourism corridors.
8. To encourage economic development activities that provide employment opportunities and a broad tax base.
9. To promote housing of such type, size and cost as will allow City residents of various economic conditions to reside in safe and sanitary dwellings.
10. To encourage new and innovative approaches to development; and to promote a sense of community within the City.
11. To accomplish all other objectives and exercise all other powers set forth in Title 15.2, Chapter 22, of the Code of Virginia, titled Planning, Subdivision of Land and Zoning.
12. And, to otherwise to implement the goals, objectives, policies and initiatives of the City's Comprehensive Plan and other land use plans.

## B. Administration

1. This ordinance shall be effective within the corporate limits of the City of Martinsville, hereinafter referred to as the City.
2. In interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity and general welfare. It is not intended by this ordinance to annul or interfere with any easements, covenants, or other agreements between parties; provided, however, where this ordinance imposes a greater restriction upon the use of building or premises, or upon the height of buildings, or requires larger open spaces than those imposed or required by other ordinances, rules, regulations, or by easements, covenants or agreements, the provisions of this ordinance shall govern.
3. The provisions of this ordinance shall be administered and enforced by the Zoning Administrator, who shall be appointed by the City Manager. The Zoning Administrator shall have all necessary authority in accordance with Section 15.2-2286 of the Code of Virginia to administer and enforce the provisions of this ordinance, including ordering the remedying of any condition found in violation of this ordinance, or the bringing of legal action to ensure compliance with this ordinance, including, but not limited to, injunction, abatement or other appropriate action or proceeding.
4. As provided by Section 15.2-2286 of the Code of Virginia, the zoning administrator shall be authorized to grant a modification from any provision contained in this zoning ordinance with respect to the physical requirements on a lot or parcel of land, including but not limited to size, height, location, or features, or related to any building, structure, or improvements, if the administrator finds in writing that:
  - (a) the strict application of this ordinance would produce undue hardship;
  - (b) such hardship is not shared generally by other properties in the same zoning district and vicinity; and
  - (c) the modification will not be of substantial detriment to adjacent property and the character of the zoning district will not be changed by the granting of the modification.

Prior to the granting of a modification, the zoning administrator shall give, or require the applicant to give, all adjoining property owners written notice of the request for modification, and an opportunity to respond to the request within 21 business days of the date of the notice. The zoning administrator shall make a decision on the application for modification and issue a written decision with a copy provided to the applicant and any adjoining landowner who responded in writing to the notice sent pursuant to this paragraph.

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## C. Zoning Districts

The incorporated territory of the City of Martinsville is hereby divided into the following districts:

<b>R-E</b>	<b>Estate Residential District</b> <i>(formerly R-16)</i>
<b>R-N</b>	<b>Neighborhood Residential District</b> <i>(formerly R-9)</i>
<b>R-C</b>	<b>City Residential District</b> <i>(formerly R-6)</i>
<b>R-T</b>	<b>Transitional Residential District</b> <i>(formerly P-1, P-2, and RP-1)</i>
<b>C-N</b>	<b>Neighborhood Commercial District</b> <i>(formerly C-1)</i>
<b>C-UB</b>	<b>Uptown Business District</b> <i>(formerly C-2)</i>
<b>C-C</b>	<b>Corridor Commercial District</b> <i>(formerly C-3)</i>
<b>ED-MC</b>	<b>Economic Development Medical Campus District</b> <i>(new district)</i>
<b>ED-G</b>	<b>Economic Development General District</b> <i>(formerly M-1)</i>
<b>ED-I</b>	<b>Economic Development Intense District</b> <i>(formerly M-2)</i>
<b>TND-O</b>	<b>Traditional Neighborhood Development Overlay District</b> <i>(new overlay district)</i>
<b>EC-O</b>	<b>Entrance Corridor Overlay District</b> <i>(new overlay district)</i>
<b>HP-O</b>	<b>Historic Preservation Overlay District</b>

## D. Zoning Map

1. The location and boundaries of the zoning districts established by this ordinance are as indicated on the map, or maps, entitled "Official Zoning Map, Martinsville, Virginia," as approved by the City Council as a part of this ordinance, endorsed by the Clerk to the Martinsville City Council, and filed in the office of the Zoning Administrator and Clerk of the Council. The Official Zoning Map shall be available for inspection by the public.
2. The boundaries of such districts as shown upon the official zoning map are hereby adopted. The provisions of this ordinance governing within each type of district the use of land and buildings, the height of buildings, building site areas, the size of yards around buildings, and other matters as are set forth in this ordinance are hereby established and declared to be in effect upon all land included within the boundaries of each and every district of said types shown upon the Official Zoning Map.

The Official Zoning Map may be comprised of more than one duly adopted map exhibit, as necessary to depict overlay and special districts.

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3. If, in accordance with the provisions of this ordinance, changes are made in district boundaries or other matters portrayed on the Official Zoning Map, such changes shall be made on the Official Zoning Map after approval by City Council on a biannual schedule, together with a reference to a more complete descriptive record of such changes which shall be kept as a permanent record in the immediate proximity of the Official Zoning Map.

This descriptive record shall contain at least the following entries: "On (date), by official action of the City Council, the following (change/changes) were made in the Official Zoning Map: (brief description of nature of such change or changes)," which entry shall be signed by the Mayor and attested by the Clerk of the City Council.

The amended ordinance shall provide that such changes or amendments shall not become effective until they have been duly entered upon the Official Zoning Map. No amendment to this ordinance which involves a matter portrayed on the Official Zoning Map shall become effective until City Council allows said amendment and schedules for it to be entered on the Official Zoning Map.

4. Changes of any nature may be made in the Official Zoning Map only in conformity with the procedures set forth in this ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this ordinance.
5. Regardless of the existence of purported copies of the Official Zoning Map, which may from time to time be made or published, the Official Zoning Map, referred to as the zoning map, which shall be located in the office of the Zoning Administrator, shall be final authority as to the current zoning status of lands, buildings or other structures in the city.

## **E. Interpretation of Zoning District Boundaries**

In the event that uncertainties exist with respect to the intended boundaries of the various zoning districts as shown on the Official Zoning Map, the following rules shall apply:

1. Where zoning district boundaries of the City of Martinsville appear to follow streets, alleys, railroads or highways, such boundaries shall be construed as the centerlines of those streets, alleys, railroads or highways.
2. Where zoning district boundaries appear to follow lines of lots or parcels of record, such lot or parcel lines shall be construed to be such boundary.
3. Where indicated district boundaries are approximately following corporate boundaries, such corporate boundaries shall be construed to be the district boundaries.
4. Where district boundaries are indicated as approximately following a river, stream, or marsh, the centerline of the river, stream or other water body shall be construed to be the district boundary.
5. All areas of the City that lie under water are considered to be within a zoning district and controlled by applicable district regulations. District boundaries over water areas are located by noted or scaled dimensions, with reference to physical features, City corporate limits or straight-line projection of the district boundaries.
6. Zoning district boundaries shall not divide a parcel of land. As such, each parcel of land in the City shall have one distinct zoning classification as depicted on the Official City Zoning Map.

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## F. Interpretation of District Regulations

Except as otherwise provided in this ordinance:

1. Within each district, the regulations set by this ordinance shall be minimum regulations and shall apply uniformly to each class or kind of structure or land.
2. Permitted uses and special permit uses are listed for the various zoning districts governed by this ordinance. Any use not specifically permitted in a specified district or districts as a by right use or a special permit use shall be prohibited.
3. No use of a structure or land that is designated as a special permit use in any district shall be established or hereafter changed to another use designated as a special use, unless a special use permit has been granted by the City.
4. Within each zoning district there are additional regulations referenced that are directly applicable to development permitted in the district.
5. No building, structure or land shall hereafter be used or occupied, and no building or structure, or part thereof, shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all the regulations specified in this ordinance for the district in which it is located.
6. No building or other structure shall hereafter be erected or altered, unless otherwise waived or amended by provisions of this ordinance:
  - a. To have a greater height
  - b. To accommodate or house a greater number of families
  - c. To occupy a greater percentage of lot area
  - d. To have narrower or smaller rear yards, front yards, or other open spaces than herein required
  - e. To be in any other manner contrary to the provisions of this ordinance
7. No part of a yard or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this ordinance, shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building.
8. No yard or lot existing at the time of passage of this ordinance shall be reduced in size or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

## G. Effective Date

This ordinance was duly considered, following public hearing duly advertised as required by law, and was adopted by the City Council of the City of Martinsville, Virginia, at its regular meeting on July 11, 2017. This ordinance shall be effective on and after August 1, 2017.

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## H. Prior Approvals

Nothing in this ordinance shall be deemed to require any change to the plans, plats, or lots previously approved prior to the effective date of this ordinance, nor to the construction, size or designated use of any structure or part thereof for which a building permit has been granted by the building inspector before the effective date of this ordinance and for which construction from such plans have been started within ninety (90) calendar days after this ordinance becomes effective.

Such construction is hereby defined as the placing of construction materials in permanent position and fastened in a permanent manner, including the demolition, elimination and removal of an existing structure in connection with such construction; provided, that actual construction work shall be diligently carried on until the completion of the building involved, and that if the building operation in question is discontinued for a period of not less than six (6) months, any further construction shall be in conformity with the provisions of this ordinance.

## I. Conflicting Ordinances

1. Whenever any provision of this ordinance imposes a greater requirement or a higher standard than is required in any State or Federal statute or any other City ordinance or regulation, the provision of this ordinance shall govern.
2. Whenever any provision of any State or Federal statute or other City ordinance or regulation imposes a greater requirement or a higher standard than is required by this ordinance, the provision of such State or Federal statute or other City ordinance or regulation shall govern.
3. The text of this ordinance shall be applied to any parcel covered by a previous grant of zoning with proffered conditions except where the imposition of the requirements of this ordinance would be in conflict with a specified proffered condition that would supersede the requirements of this ordinance.

## J. Severability

Should any section or provision of this ordinance be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part so held to be unconstitutional or invalid.

## K. Public Hearings

1. Development applications listed below may require public notice and public hearings before the City Council, Planning Commission, or Board of Zoning Appeals, as appropriate per application. A public hearing is an open meeting conducted by these decision making bodies where the public is provided

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an opportunity to comment on the application being considered before a recommendation or decision is made.

2. Applications that may require a public hearing include:
  - a. appeal to the Board of Zoning Appeals
  - b. comprehensive plan amendment
  - c. subdivision of land
  - d. special use permit
  - e. zoning text amendments
  - f. zoning variance or waiver of conditions
  - g. zoning map amendment
3. A public record is established for all proceedings. Files, including the application, support materials, any materials submitted by persons either for or against the application, findings, and the decision, shall be made available to the public.
4. Each decision-making body has adopted rules of procedure/bylaws that govern how meetings and public hearings are conducted. These rules can be obtained by contacting the office of the Zoning Administrator.

## **L. Violations and Penalties**

1. All City officials and employees who are vested with duty or authority to issue permits or licenses shall adhere to the provisions of this chapter. Upon consultation with this chapter and the Zoning Administrator, as may be appropriate, they shall issue permits for uses, buildings or purposes only when they comply with the provisions of this chapter. Any permit or license issued in conflict with the provisions of this chapter shall be null and void.
2. The following persons shall be jointly and severally liable for any violation of this Ordinance that causes, permits a violation of the zoning ordinance, or fails to abate such violation after notice of such violation has been given to such person within the time frame specified in such notice:
  - a. Any owner who holds fee simple title to such real property, whether as sole owner or co-owner thereof; and whether such co-ownership is as a tenant by the entireties, joint tenant or tenant in common, and also including any trustee that holds title to real property, excluding, however, a trustee under any deed of trust on the property.
  - b. Any tenant who occupies the property, whether or not for compensation.
  - c. Any person who is in charge of one or more of the development, maintenance, occupancy or use of the property.
3. The City may proceed against any one or more of the violations listed in this ordinance, and each person proceeded against shall be punished by assessment of a civil penalty of \$50.00 for the initial summons and \$200.00 for each additional summons.
  - a. Each day during which the violation is found to exist shall constitute a separate offense; however, in no event shall penalties for specified violations arising from the same operative set of facts be charged more frequently than once in any ten-day

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period, nor shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of \$5,000.00. No civil penalty shall accrue or be assessed during the pendency of the 30-day appeal period provided for under this code.

- b. Each violation shall be subject only to the civil penalty set forth unless such violation results in injury to one or more persons, in which case the violation may, at the option of the zoning administrator, be prosecuted as a class 4 misdemeanor. In the event of such election, no civil penalty shall be assessed as to such violation.
  - c. If a person charged with a violation does not elect to enter a waiver of trial as hereinafter provided, the violation shall be tried in the general district court for the City of Martinsville in the same manner and with the same right of appeal as provided by law.
  - d. Any person subject to civil penalty and summoned for a violation may appear in person or in writing by mail to the city treasurer prior to the date fixed for trial in court. Such person may enter a waiver of trial, admit liability and pay the civil penalty assessed hereunder. Such persons shall be informed of their right to stand trial and that such person's signature to an admission of liability will have the same force and effect as a judgment in court.
  - e. An admission or finding of liability shall not be a criminal conviction for any purpose.
4. In addition to pursuing the penalties provided in this section, the zoning administrator may bring additional legal action to ensure compliance with this chapter, including injunction, abatement or other appropriate action or proceeding.
  5. For purposes of this section, owner means the person or entity shown on the city's current real estate assessment records or the fee simple title holder(s) of the property if ownership has changed since such tax assessment records were last updated; tenant means any person, other than the owner, who resides at or otherwise occupies the subject property, with or without a valid lease and whether or not compensation is paid for said residence or not.

## M. Annexation

1. Any territory which may hereafter be annexed and incorporated into the City of Martinsville shall be temporarily classified into such City zoning district as most closely approximates the Henry County zoning district to which it previously belonged, as determined by the City Council upon recommendation of the Planning Commission.
2. Within six (6) months after the effective date of the final court order of annexation, and in accordance with this ordinance, further study of the annexed parcels shall be made by City staff, and the temporary zoning classification shall either be affirmed or such property shall be reclassified by the City. Such action shall require a public hearing by City Council upon recommendation by the Planning Commission.

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## N. Building Permits

1. A building permit is required in advance of the initiation of any building construction activity including erecting, constructing, enlarging, structurally altering, converting or relocating any building or structure and for any other activity as required by the Virginia Uniform Statewide Building Code.
2. All applications for building permits shall be accompanied by building plans, specifications and site plans as required by the Virginia Uniform Statewide Building Code, plus additional information deemed necessary by the Zoning Administrator to enforce the provisions of this ordinance.
3. Issuance of any building permit is subject to the applicant obtaining an approved zoning permit, site plan, subdivision plat, certificate of appropriateness, floodplain activity permit or any other plan approval or permit as may apply.
4. No building permit shall be issued until the Zoning Administrator has certified that the proposed construction and use of the premises conform with all applicable provisions of this ordinance. The Zoning Administrator shall be responsible for determining whether those applications for permits are in accord with the requirements of this ordinance.
5. It shall be unlawful for any person to erect, construct, enlarge, extend, structurally alter or use any building except in conformance with plans approved by the Zoning Administrator, or his designee, as required by this Ordinance.

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## II. Definitions

### A. Purpose and Intent

This Section defines terms and phrases used within this Zoning Ordinance, in the interest of specificity and clarification. While it does not attempt to define all terms used in subsequent sections, this section defines those terms that may be called into question, or those terms used here in unique or specific circumstances. When a definition contained in this section differs from a common or dictionary definition of the same term, the definitions contained in this Section shall be used. When interpretation of any definition or term contained in this ordinance is necessary, such interpretation will be the responsibility of the Zoning Administrator.

### B. Definitions

#### Accessory Residential Dwelling Unit

A secondary dwelling unit established in conjunction with and clearly subordinate to a principal dwelling unit, whether part of the same structure as the principal dwelling unit, or as a detached structure on the same lot.

#### Accessory Use or Accessory Structure

Any land, building or structure, the use of which: is customarily found in association with, and serves the principal use; is subordinate in purpose, area or extent to the principal use served; and is located on the same lot as the principal use. Such facilities shall not be larger than the primary use or structure. Carports, garages, utility sheds, and similar facilities customarily associated with residential living are permitted, but only after zoning clearance is obtained and any necessary building permit has been issued. No shipping containers, trailers, manufactured or mobile homes, vehicle bodies or similar containers shall be classified as accessory structures. All accessory structures must comply with yard regulations specific to the applicable zoning district.

#### Act of God

Any event in which damages are caused which are outside of the control of any individual. Damage or destruction by hurricane, flood, earthquake, or lightning shall be considered acts of God.

#### Adult

Any person eighteen (18) years of age or older.

#### Adult Day Care

Any facility that provides supplementary care and protection during only a part of the day for aged, infirm or disabled adults who reside elsewhere, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Behavioral Health and Developmental Services, and (ii) the home or residence of an individual who cares for only persons related to him by blood or marriage. Included in this definition are any two or more places, establishments or institutions

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owned, operated or controlled by a single entity and providing such supplementary care and protection to a combined total of four or more aged, infirm or disabled adults. All applications for an adult day care establishment shall require a special use permit and a site plan. Yard, lot, parking and loading requirements shall be determined and established with the special use permit review process.

#### **Adult Establishment**

An establishment featuring (i) live entertainment, dancing, or movies emphasizing the exhibition of sexual activities or specified anatomical areas, or (ii) the sale of magazines, books, video recordings, or other goods depicting, describing, or relating to sexual activities or specified anatomical areas, where such items constitute more than 15 percent of the stock or occupy more than 15 percent of the gross public floor area.

Movies rated G, PG, PG-13, or R by the Motion Picture Association of America (MPAA) are expressly excluded from this definition, as are venues for live theatrical performances with serious artistic value that depict or describe specified anatomical areas are expressly excluded from this definition.

#### **Alley**

A roadway which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

#### **Amusement Arcade**

Establishments in which a principal use is the operation of video, mechanical, electronic, and/or coin operated games and/or devices for the amusement of the general public.

#### **Amusement Machine**

Any video, mechanical, electronic and/or coin operated game and/or device for the amusement of patrons. This definition shall not be construed to include coin operated music players, coin operated mechanical children's rides or coin operated television.

#### **Animal Experimentation or Testing**

Any use involving the testing of products, chemicals, medications on animals, whether live or deceased, as well as any experimentation on same, or the keeping of same in a laboratory environment.

#### **Animal or Veterinary Clinic**

A facility for the care and treatment of animals, including household pets and larger domesticated animals. Such facilities may be entirely indoors or may have both indoor and outdoor components.

#### **Antenna or Satellite Dish**

A structure external to or attached to the exterior of a building, together with any supporting structure for sending or receiving electromagnetic waves. These may be principal or accessory structures.

#### **Apartment**

May refer to an individual dwelling unit within a multi-family dwelling, or to an accessory residential dwelling unit. See definitions for multifamily dwelling or accessory residential dwelling unit as necessary.

#### **Apartment Building**

See dwelling, multifamily.



**Artisan Craft Production**

A facility housing the small scale manufacture of ceramics, woodwork, furniture, or other crafts for direct sale of finished products to the public by the craftsperson.

**Artist Studio**

A facility used as a place of work for an artist or craftsman primarily for the recreation or cultural education of the public, including persons engaged in the application, teaching, exhibition, retail sale or performance of fine arts such as, but not limited to, drawing, vocal or instrumental music, painting, sculpture, and writing.

**Assisted Living Facility**

A building, section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, whether operated for profit or not, which undertakes through its ownership or management to provide housing, meals, health care assistance, and one or more personal services for a period exceeding twenty-four (24) hours to one or more adults who are not relatives of the owner or proprietor. Accessory uses may include dining rooms and infirmary facilities for intermediate or skilled nursing care solely for the use of the occupants residing in the principal facility.

**Auction House**

A facility at which merchandise is sold to highest bidders through an auction process. This definition shall apply only to permanent auction facilities and not to charity or occasional auctions held at non-permanent sites. This does not apply to internet auctions which are prohibited in all City zoning districts. This definition does not apply to internet auctions.

**Automobile Parking Garage**

A building or portion thereof design for, and used exclusively for, the storage of multiple automobiles, but within which no motor vehicles are serviced, repaired, equipped, leased or sold. This definition shall not include garages meant for the exclusive use of a home owner or renter which are attached or accessory to single family attached or detached dwellings.

**Automobile Parking, Off-Street**

Any space specifically allotted to the parking of motor vehicles as an accessory use. The term does not include space located in a dedicated right-of-way, travel lane, service drive, or easement for public ingress or egress.

**Automobile Parking, Shared**

Off-street parking facilities shared by two or more uses that are in close proximity to one another and the parking area, and that have different operational characteristics such that use of the parking facilities by one use will not generally overlap with the use of the parking area by the other use(s).

**Automobile Repair and Service**

A building and premises wherein the primary use is the repair and maintenance of vehicles, including engine repair, tire servicing, exhaust systems, and brake repair, along with the retail supply of oil, batteries, tires, and motor vehicle accessories.

**Automobile Sales and Rental**

Premises on which new or used passenger automobiles, trailers, motorcycles, recreational vehicles, or light trucks in operating condition are displayed indoors or outdoors for sale, lease, or rental.

**Awning**

A roof-like covered structure (of flexible or rigid material), attached to and extending beyond the building wall.

**Bank or Financial Services**

Any building wherein the primary occupation involves such state-regulated businesses as banks, savings and loans, loan companies and investment or securities companies.

**Bed and Breakfast (Home Stay) Establishment**

Owner occupied business property that is both a business and a residence: (i) having no more than six (6) bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided. For purposes of any subsequent licensing requirements of this title, "bed and breakfast establishment" includes any property offered to the public for short-term rental, as that term is defined in Code of Virginia § 15.2-983, other than a hotel as defined in this section, regardless of whether a meal is offered to each person to whom overnight lodging is provided. The City, at its option, may elect to require registration of such lodging and establish further regulations pertaining to its oversight.

**Bed and Breakfast Inn**

Small owner-operated business offering overnight lodging and meals having less than ten (10) bedrooms. Owner may or may not live on site and the business may operate a restaurant. The building's primary use is as a business.

**Berm**

An elongated earthen mound typically designed or constructed on a site to separate, screen, or buffer adjacent uses.

**Best Management Practices (BMP)**

A practice or combination of practices determined by a state, regional or City agency to be the most effective and practical means of preventing or reducing negative impacts of stormwater runoff.

**Board of Zoning Appeals**

The board as enacted by this ordinance.

**Buffer**

An area of natural or planted vegetation adjoining or surrounding a use and unoccupied in its entirety by any building, structure, paving or portion of such use, for the purposes of screening and softening the effects of the use, no part of which buffer is used for recreation or parking.

**Building Code**

The Virginia Uniform Statewide Building Code, as amended; may also be referred to as —USBC or —VUSBC.

**Building Height**

The vertical distance from the average sidewalk grade or street grade, or finished grade at the building line, whichever is the highest, to the highest point of the building.

**Building Official**

The building official of the city, (refer to state building code).

**Building Line**

A line located parallel to the right-of-way of a street or road with a distance at all points from the right-of-way line equal to the front yard depth requirements as provided in this ordinance for the particular locale.

**Building, Main**

A building in which the principal use of the lot is conducted. In any residential district, any dwelling shall be deemed to be a main building on the lot.

**Caliper**

A horticultural method of measuring the diameter of a tree trunk for the purpose of determining size. The caliper of the trunk is measured six inches above the ground for trees up to and including four inches in diameter, 12 inches above the ground for trees greater than four inches and up to ten inches in diameter, and at breast height (4½ feet) for trees ten inches or greater in diameter.

**Cemetery or Mausoleum**

Any land, or structure used or intended to be used for the interment of human remains. The sprinkling of ashes or their burial in a biodegradable container on church grounds or their placement in a columbarium on church property shall not constitute the creation of a cemetery.

**Certificate of Occupancy**

A statement, signed by the building official of the City, setting forth that a building, structure, or use complies with the zoning ordinance and that the same may be used for the purposes stated therein.

**Child Day Care Center**

A Child Day Care Center means a facility providing a child day care program, as defined in Code of Virginia Section 63.2-100, offered to (a) two or more children under the age of 13 in a facility that is not the residence of the provider or of any of the children in care or (b) 13 or more children at any location. A child day program means a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of 13 for less than a 24-hour period.

**Church or Place of Worship**

A structure or place in which worship, ceremonies, rituals, and religious education are held, together with its accessory buildings and uses (including buildings used for educational and recreational activities), operated, maintained, and controlled under the direction of a religious group. Religious institutions include churches, mosques, synagogues, and temples. Accessory uses may include religious school facilities, parking, or caretaker's quarters.

**City Code**

The Martinsville City Code.

**City Council**

The governing body of the city.



**Clerk of the Court**

The clerk of the circuit court of the city.

**Cluster Development**

See "Residential Cluster Development.

**Code of Virginia**

The Code of Virginia, as defined in Title 1, Chapter 1, Section 1-1 Code of Virginia, effective as set forth within Sections 1-2 and 1-2.1, as such Code has been amended, and may hereafter be amended, from time to time.

**Common Area**

See Open Space, Common.

**Community Center**

A building used for recreational, social, educational and cultural activities.

**Community Garden**

A group of individuals growing and harvesting food crops and/or non-food, ornamental crops, such as flowers, for personal or group use, consumption, or donation. Community gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained and used by group members.

**Comprehensive Plan**

The official document or elements thereof adopted by the City Council and intended to guide the physical development of the City or a portion thereof. Such plan, including maps, plats, charts, policy statements and descriptive material, shall be that adopted in accordance with Section 15.2-2226 of the Code of Virginia, and reviewed or revised every 5 years.

**Condominium**

Real property, and any incidents thereto or interests therein, lawfully submitted in accordance with Title 55 Virginia Code, Chapter 4.2 Condominium Act, by the recordation of condominium instruments pursuant to the provisions of this Ordinance. No project shall be deemed a condominium within the meaning of this Ordinance unless the undivided interests in the common elements are vested in the unit owners.

**Contractor Workshop**

Offices for building, heating, plumbing, or electrical contractors, including workshop and related storage facilities.

**Convenience Store**

A retail establishment primarily engaged in the sale of a variety of convenience goods including snacks, magazines, cigarettes, personal items and food items which also may include the sale of gasoline or similar petroleum products

**City Manager**

The chief appointed administrative official of the city.

**Density**

A measure of the number of size of structures occupying a given parcel or area of land. Density is measured in dwelling units per acre for residential uses, and in Floor Area Ratio for non-residential uses.

**Development**

Land developed, or to be developed, as a unit under single ownership or unified control, which is to be used for any business or industrial purpose, or is to contain three or more residential dwelling units. The term shall include activity that constitutes redevelopment of a previously-developed site. Where appropriate to the context, the term may also be used to refer to land disturbing activity or construction of improvements on property.

**District**

An area delineated on the Official Zoning Map which sets forth standards and guidelines for all development within the prescribed area.

**Drive-Through**

A facility designed to enable a person to transact business while remaining in a motor vehicle.

**Drug Store or Pharmacy**

A freestanding establishment that is engaged in the retail sale of prescription drugs, nonprescription medicines, cosmetics, and related items.

**Dwelling**

A building or portion thereof, but not a mobile home, designed or used for residential occupancy. The term shall not be construed to mean a hotel, rooming-house, hospital, or other accommodation used for transient occupancy, provided that a short term rental use of a dwelling shall be permitted as defined in this section.

**Dwelling, Duplex**

Two single-family dwelling units joined to one another by a common party wall, occupying separate and adjacent individual lots, and meeting all criteria such that each dwelling can be marketed and transferred on an individual.

**Dwelling, Attached**

A group of two or more single-family dwelling units which are generally joined to one another by a common party wall, a common floor or ceiling, or permanent connecting structures such as breezeways, carports, garages, or walls, whether or not such units are developed in a condominium arrangement, or on adjacent individual lots. Each unit shall have its own outside entrance. The term Attached Dwelling includes structures such as semi-detached dwellings, patio houses, and townhouses, but not multi-family or apartment dwellings.

Code requirements for attached dwellings must be met to ensure that each dwelling can be marketed and transferred on an individual, or as a condominium in compliance with applicable Virginia laws.

**Dwelling, Live/Work**

A structure or portion of a structure combining both a commercial or business space and a residential living space principally used by the proprietor of the commercial space. The primary use of the structure shall be commercial, with the residential portion clearly subsidiary to the

commercial use. The residential portion may be on an upper level, or on the same level as the business space, but must occupy no more than half of the total building square footage.

#### **Dwelling, Multi-Family**

A residential building containing three or more separate dwelling units located on a single lot. A multiple-family dwelling, commonly known as an apartment house, generally has a common outside entrance for all the dwelling units and the units are generally designed to occupy a single floor, one above another. The term shall not include a single-family attached dwelling. Units may be offered for rent, or for purchase in a condominium arrangement.

#### **Dwelling, Single-Family Detached**

A residential building containing only one dwelling unit and not occupied by more than one family.

A residential facility in which no more than eight individuals with mental illness, mental retardation, or developmental disabilities reside, with one or more resident counselors or other staff persons. For the purposes of this definition, mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in Section 54.1-3401 of the Code of Virginia. No conditions more restrictive than those imposed on residences occupied by persons related by blood, marriage, or adoption shall be imposed on such facility. For purposes of this subsection, "residential facility" means any group home or other residential facility for which the Department of Behavioral Health and Developmental Services is the licensing authority pursuant to the Code of Virginia.

Zoning ordinances for all purposes shall consider a residential facility in which no more than eight aged, infirm or disabled persons reside, with one or more resident counselors or other staff persons, as residential occupancy by a single family. No conditions more restrictive than those imposed on residences occupied by persons related by blood, marriage, or adoption shall be imposed on such facility. For purposes of this subsection, "residential facility" means any assisted living facility or residential facility in which aged, infirm or disabled persons reside with one or more resident counselors or other staff persons and for which the Department of Social Services is the licensing authority pursuant to this Code.

#### **Easement**

A grant by a property owner of the use of his land to another party for a specific purpose.

#### **Electronic Game Room (Internet Sweepstakes / Internet Cafe)**

A business enterprise, whether principal or accessory, where persons utilize electronic machines, including, but not limited to, computers and gaming terminals to conduct games of odds or chance, including sweepstakes, and where cash, merchandise, or other items of value are deemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. Electronic gaming operations do not include operations associated with the official Virginia Lottery or amusement arcades. All electronic game rooms are prohibited in the City.

#### **Engineer**

A professional engineer registered with the State Board of Professional Occupation and Registration.

#### **Family**

One or more persons living together as a single housekeeping unit and using common cooking facilities.

**Family Day Home**

A child day program offered in the residence of the provider or the home of any of the children in care for one through 12 children under the age of 13, exclusive of the provider's own children and any children who reside in the home, when at least one child receives care for compensation. The provider of a licensed or registered family day home shall disclose to the parents or guardians of children in their care the percentage of time per week that persons other than the provider will care for the children. Family day homes serving five through 12 children, exclusive of the provider's own children and any children who reside in the home, shall be licensed. However, no family day home shall care for more than four children under the age of two, including the provider's own children and any children who reside in the home, unless the family day home is licensed or voluntarily registered. However, a family day home where the children in care are all related to the provider by blood or marriage shall not be required to be licensed.

**FAA**

The Federal Aviation Administration.

**FCC**

Federal Communications Commission.

**Fence**

A structure used to delineate a boundary or act as a barrier or means of protection, confinement, or screening.

**Fire Code**

The Virginia Statewide Fire Prevention Code

**Fitness Center or Health Club**

An establishment offering or providing facilities for, and instruction in, general health, physical fitness and controlled exercises such as weight lifting, calisthenics, and aerobics. This use category shall not include dancehalls, teen centers or similar commercial recreation/entertainment establishments and operations. Retail sales of hand-held fitness equipment, clothing, or health foods may occur as an accessory use.

**Floor Area Ratio (FAR)**

The ratio of a building's gross floor area to the area of the parcel on which it is built. (example: a 5,000 sq.ft. building on a 10,000 sq.ft. lot would have an FAR of 0.5, while a 20,000 sq.ft. building on a 10,000 sq.ft. lot would have an FAR of 2.0, indicating a multi-story building).

**Fraternal Organization**

Any organization having religious, charitable or professional non-profit purposes.

**Frontage**

All the property abutting one side of a street between two (2) intersecting streets, measured along the street line.

**Garage**

An accessory building or part of a principal building used primarily for the storage of licensed and operable motor vehicles, but having no provision for repairing or servicing such vehicles for profit.

**Garage Sale**

See yard sale.



**Gasoline Sales**

Buildings and premises where gasoline is supplied and dispensed at retail.

**Gross Building Area**

The total land area covered by a building or by buildings multiplied by the number of stories of the building or buildings, exclusive of any interior mall pedestrian traffic areas and exterior covered walkways, but including such sales cubicles as may be constructed at any time in such interior mall traffic ways.

**Ground Sign**

Any sign supported by uprights or braces placed in or upon the ground and not attached to a building.

**Group Home**

A residential facility in which individuals with mental illness, intellectual disability, or developmental disabilities reside, with one or more resident counselors or other staff persons (licensed by the Department of Behavioral Health and Developmental Services), or in which individuals or families that are aged, infirm, abused, relocated, or disabled reside with one or more resident counselors or other staff persons (licensed by the Department of Social Services).

For the purposes of this Ordinance, such a facility containing eight (8) or fewer residents shall be considered residential occupancy by a single family. For the purposes of this definition, mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in Virginia Code Section 54.1-3401.

**Height**

When referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure even if said highest point is an antenna.

**Homeowners Association (HOA)**

An organization of homeowners or property owners of lots or land in a particular subdivision, condominium, or planned development. The homeowners association is responsible for maintaining and enhancing the shared public and private infrastructure (e.g., streets and sidewalks) and common space like recreation features. May also be referred to as Property Owners' Association (POA).

**Home Occupation**

The operation of small home-based businesses within a residential dwelling or residential zone. Conditions and requirements for a home occupation shall be as defined in the General Provisions; Section 3.J. Home Occupations.

**Hospital**

Any institution receiving inpatients and rendering medical, surgical or obstetrical care, including general hospitals and specialized institutions in which care is oriented to cardiac, eye, ear, nose, throat, psychiatric, orthopedic, skin, cancer or obstetric cases.

**Hotel or Motel**

A duly licensed establishment, provided with special space and accommodation, where, in consideration of payment, full food and beverage services and lodging are habitually furnished to persons, and which has four (4) or more bedrooms for overnight guests.

**Hydroponic Agriculture**

A facility growing fruits, vegetables, flowers, or other plants in an enclosed and controlled indoor environment, including greenhouses, without the use of soil.

**Impervious**

Any surface composed of such material as to significantly impedes or prevents the natural infiltration of water into the soil. Impervious surfaces include, but are not limited to, roofs, buildings, streets, parking areas, and any concrete or asphalt surface.

**Independent Senior Living**

Any single family, attached, or multifamily residential development designed, marketed, or intended for the exclusive occupation of adult residents over the age of 55 years.

**Kennel**

A use or building in which the principal activity is the keeping, raising, breeding, or boarding of dogs. Any such activity shall not be considered a kennel where accessory to a principal residential use, provided that not more than four (4) dogs exceeding six (6) months in age are kept.

**Landscaping**

The improvement of a property with grass, shrubs, trees or other vegetation. It shall include pedestrian walks, flowerbeds, and ornamental objects such as fountains, statues and other similar natural and artificial objects designed and arranged to produce an aesthetically pleasing effect.

**Laundromat**

A facility where patrons wash, dry, or dry clean clothing or other fabrics in machines operated by the patron.

**Library**

A public facility for the use, but not sale, of literary, historical, scientific, musical, artistic, or other reference materials.

**Lodge or Club**

A building and related facilities owned and operated by a corporation, association, or group of individuals established for fraternal, social, educational, recreational, or cultural enrichment of its members and primarily not for profit, and whose members meet certain prescribed qualifications for membership and pay dues.

**Lot**

A parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards, and other open spaces as are herein required. A lot may consist of:

- a. A single lot of record
- b. A portion of a lot of record
- c. A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of records; provided that in case of division or combination, any residual lot or parcel created must meet the requirements of this ordinance

**Lot, Corner**

A lot abutting upon two (2) or more streets or roads at their intersection

**Lot Coverage**

The portion of a lot or parcel occupied by all principal and accessory structures, as well as all impervious surfaces, including sidewalks and paved driveways and parking areas.

**Lot, Interior**

A lot within a block and having frontage on only one street.

**Lot Lines**

The property lines bounding a lot.

**Lot Measurements**

- a. Depth of a lot shall be considered to be the shortest distance measured between the front and the rear lot lines
- b. Depth of a lot shall be considered to be the shortest distance measured between the side lot lines

**Lot of Record**

A lot included in a plat of a subdivision approved by the planning commission pursuant to Appendix A of the Code of the City of Martinsville, Virginia (1983), as amended, recorded in the circuit court clerk's office of the city or of Henry County, or, a lot described by metes and bounds in a deed or other document recorded prior to April 12, 1955, in the circuit court clerk's office of the city or of Henry County.

**Low Impact Development (LID)**

A land planning and engineering design approach to manage stormwater runoff by emphasizing conservation and the use of on-site natural features to protect water quality by infiltrating, filtering, storing, evaporating, or detaining runoff close to its source

**Manufactured Home**

A structure, also called a mobile home, subject to federal regulation, which is transportable in one or more sections; is eight body feet or more in width and forty body feet or more in length in the traveling mode, or is 320 or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. Not to be confused with Modular Buildings (see below).

**Marquee**

Any fixed canopy or other covered structure, other than a projecting sign, which is structurally a part of a building, projecting from and wholly supported by the building and extending beyond the building wall.

**Medical Laboratory**

Facilities and offices for performing diagnostic or therapeutic medical, dental, or other healthcare procedures of a nonsurgical nature.

**Microbrewery or Taproom**

A facility for the production and packaging of beer for distribution or retail sale. The facility may also include a restaurant or bar for on-premise consumption of beverage produced by the facility.

**Mixed-Use Development**

A tract of land or structure developed to include two or more different uses, such as, but not limited to, residential, office, retail, institutional, public, or entertainment. Such uses are functionally integrated and share vehicular use areas, ingress/egress, and pedestrian access. Mixed-use may describe uses occupying separate structures on the same site, or uses combined within a single structure.

**Modular Building**

Any structure built in large segments at an off-site factory and then assembled on-site on a permanent foundation. Modular buildings are not built on a permanent chassis designed for towing, and must meet the same building code as required for site-built structures. Not to be confused with Manufactured Homes (see above).

**Monopole**

A single pole structure usually self supporting used to support antennas.

**Mural**

A work of graphic art painted or applied to the exterior surface of a structure, which contains no advertising, commercial messages, or logos.

**Museum**

A building serving as a repository for a collection of natural, scientific, historical, or literary curiosities or works of art, and arranged, intended, and designed to be used by members of the public for viewing, with or without an admission charge, and which may include as an accessory use the limited retail sale of goods, services, or products such as prepared food to the public.

**Net Developable Area (NDA)**

The total area of a site less the area of the following land characteristics: (a) wetlands and water features, (b) 100-year floodplain, and (c) terrain with slopes thirty (30) percent or greater.

**Nursing Home**

Any facility or any identifiable component of any facility in which the primary function is the provision, on a continuing basis, of nursing services and health-related services for the treatment and inpatient care of two or more non-related individuals, including facilities known by varying nomenclature or designation such as rest homes, convalescent homes, skilled care facilities, intermediate care facilities, emergency shelters, veterans homes, extended care facilities and infirmaries. This does not include the home or residence of any individual who cares for or maintains only persons related to him or her by blood or marriage.

**Open Space**

Areas intended to provide light, air, recreational, or scenic beauty. Open space may include, but is not limited to lawns, decorative plantings, walkways, active and passive recreation areas, playgrounds, fountains, swimming pools, undisturbed natural areas, agriculture, wooded areas, water bodies and those areas where landscaping and screening are required by the provisions of this ordinance. Open space shall not include driveways, parking lots, or other vehicular surfaces, any area occupied by a building, nor areas so located or so small as to have no substantial value for the purposes stated in this definition.

**Open Space, Common**

Within a residential subdivision, open space shall be composed of only those areas not contained in individually owned lots. Common open space shall be designed and set aside for use and enjoyment by all residents or occupants of the development or by the residents or occupants of a designated portion of the development. Common open space shall represent those areas not to be dedicated as public lands, but are to remain in the ownership of a homeowners association or of a condominium.

**Outpatient Mental Health and Substance Abuse Clinics**

An establishment which provides outpatient services primarily related to the treatment of mental health disorders, alcohol, or other drug or substance abuse disorders, which services include the dispensing and administering of controlled substances and pharmaceutical products by professional medical practitioners as licensed by the Commonwealth of Virginia and compliance with the state code requirements for location of such facilities.

**Outside Storage**

The placement of products or materials (other than vehicles) for storage, display, or sale, outside of a structure, but within the same property. This includes, but is not limited to, items such as lumber, mulch, fertilizer, and equipment. Outdoor storage may require a special use permit or specific landscaping or screening.

**Owner**

Any person or legal entity holding legal title to land.

**Parking Space, Off-Street**

The standing storage space for one automobile plus the necessary driveway access space. The standing storage space shall meet the minimum requirements set forth in the parking design standards.

**Pawn Shop**

Any establishment which lends or advances money for profit on the pledge or possession of personal property or other valuable things, other than securities or written evidences of indebtedness, or who deals in the purchasing of personal property or other valuable things on condition of selling the same back to the seller at a stipulated price.

**Personal Services Establishment**

Any building wherein the primary occupation is the repair, care, maintenance or customization of personal properties that are worn or utilized by the person or that are a physical component of the person. The term shall include barbershops, beauty parlors, laundering, cleaning and other garment servicing establishments, tailors, tattoo parlors, dressmaking shops, spas (including days spas and those that offer therapeutic massage), shoe cleaning or repair shops, and other similar places of business.

**Pet Grooming**

Any place or establishment, public or private, where animals are bathed, clipped, or combed for the purpose of enhancing their aesthetic value and/or health and for which a fee is charged. These uses do not include outdoor boarding.

**Planning Commission**

The Planning Commission of the City of Martinsville.

**Plat or Subdivision Plat**

The schematic representation of land divided or to be divided, and information in accordance with the provisions of Code of Virginia Sections 15.2-2241, 15.2-2242, 15.2-2258, 15.2-2262, 15.2-2264 and other applicable statutes.

**Principal Building**

A building in which the primary use of the lot on which the building is located is conducted.

**Principal Use**

The main use of land or structures as distinguished from a secondary or accessory use.

**Professional Office**

A room, or group of rooms used for conducting the affairs of a general business establishment, including financial services, sales of real estate or other personal property, and professional services. Examples of business services office uses include offices for retail and wholesale establishments, stock brokerage, investment services, credit card services, real estate sales, lawyers, accountants, engineers, architects, artwork, artifacts, or other specialized services.

**Proprietors Apartment**

A residential apartment located in a building housing an approved commercial land use but that is not otherwise zoned or approved for residential use, wherein (a) the resident has principal responsibility for the management and oversight of the commercial land use in which the apartment is located and (b) as otherwise defined within this ordinance.

**Public Place**

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane. The term shall not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the City in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which are not licensed and on which alcoholic beverages are not sold.

**Recreational Equipment**

Equipment, including boats, boat trailers, rafts, house trailers, travel trailers, pick-up campers or coaches, motorized dwellings, tent trailers and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not.

**Recreational Vehicle**

A vehicle which is:

- a. Built on a single chassis
- b. Four hundred (400) gross square feet or less when measured at the largest horizontal projection



- c. Designed to be self-propelled or permanently towable by a light duty truck
- d. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use

#### **Repair Service Establishment**

Any building wherein the primary occupation is the repair and general service of common home appliances such as musical instruments, sewing machines, televisions and radios, washing machines, vacuum cleaners, power tools, electric razors, refrigerators and lawnmowers; or any building wherein the primary occupation is interior decorating, including reupholstering and the making of draperies, slipcovers and other similar articles, but not including furniture making or cabinet making establishments. The term shall not include any establishment involving the use of more than three vehicles other than passenger cars.

#### **Research and Development**

A business that engages in research, or research and development, of innovative ideas in technology-intensive fields. Examples include research and development of computer software, information systems, communication systems, transportation, geographic information systems, multi-media and video technology. Development and construction of prototypes may be associated with this use.

#### **Residential Cluster Development**

A zoning option for residential land use that allows a property owner or developer to group dwellings on smaller lots in one area of a site while preserving remaining land for recreation, common open space, or protection of environmentally sensitive areas.

#### **Restaurant**

Any eating establishment, coffee shop, cafeteria, short order cafe, lunchroom, luncheonette, hotel dining room, dinner theater, tavern, soda fountain, or other establishment maintained and operated where there is furnished, for compensation, food or drink of any kind for consumption primarily therein. The term shall not include a fast food restaurant or a snack bar or refreshment stand at a public or nonprofit recreational facility, operated solely by the agency or group operating the recreational facility for the convenience of patrons of the facility.

#### **Restaurant, Fast Food**

Any establishment that provides as a principal use wrapped or packaged food and drink, which is ready for consumption in cars, at seating within the premises, or off the premises.

#### **Retail Sales Establishment**

Any building wherein the primary occupation is the sale of merchandise in small quantities, in broken lots or parcels, not in bulk, for use or consumption by the immediate purchaser. The term shall not include automobile-oriented uses, quick-service food stores, or vehicle sale, rental or ancillary service establishments.

#### **Retaining Wall**

A structure constructed to hold back or support an earthen bank.

#### **Screening**

Material, consisting of wood, metal, masonry, vegetation or other approved substances, constructed or planted to be sufficiently high and dense so as to effectively obscure certain permitted uses from the view of adjacent properties and/or public rights-of-way.

**Self Storage Facility**

A building divided into sections for use for storage of items, either temporary or long-term, and not to be used for any other purpose (such as small offices, garages, etc.). Also called mini-warehouse.

**Setback**

The minimum distance which a building or building line must maintain from a property or street line in order to conform to yard dimension or other property or street line distance requirements.

**Service Station**

A building or lot where gasoline, diesel and/or other fuels, oil, grease, and accessories are supplied and dispensed to the motor vehicle trade by an attendant and where battery charging, tire repair, and minor mechanical services may be rendered provided that no special area is set aside for the rendering of mechanical services. This definition may be construed to include self service pumps in conjunction with attendant service pumps but shall not be construed to include tire recapping or the provision of services normally conducted in a repair garage or body shop, or the sale of used vehicles.

**Shopping Center**

A group of three (3) or more of commercial establishments, planned, owned and managed as a unit providing on-site parking in definite relationship to the types and sizes of stores therein.

**Short Term Rental**

"Short-term rental" means the provision of a room or space located within a residential dwelling that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than thirty (30) consecutive days, in exchange for a charge for the occupancy. Subject to the requirements of Section III.N of this ordinance, short-term rental of residential dwelling units shall be permitted as a by-right use in any residential or mixed-use zoning district in the City of Martinsville.

**Sign**

Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or trademarks, or combinations thereof, by which anything is made known, such as the designation of an individual, a firm, an association, a profession, a business, a commodity, or a product which is visible from any public way and used as outdoor display. The definition does not include window "statics", "clings" or "stickers".

**Sign Area**

The area of a sign computed as the smallest square, rectangle, triangle, circle or combination thereof encompassing the entire advertising copy area, excluding illuminating devices and structural supports.

**Single Ownership**

Whenever the phrase "in single ownership" is used it shall be construed to include joint tenancies in common or other estates in which two (2) or more persons hold undivided interests in a single piece of property.

**Specified Anatomical Areas**

- a. less than completely and opaquely covered: human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola

- b. human male genitals in a discernibly turgid state, even if completely and opaquely covered

**Stockyard or Slaughterhouse**

A site where livestock is stored and butchered for food.

**Stormwater Management (SWM)**

Any effort of planning, maintenance, or regulation of facilities which collect, store, treat, and convey water that accumulates in a natural or constructed storage or stormwater systems during or immediately following precipitation.

**Story**

That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there be no floor above it, then the space between such floor and the ceiling next above it; provided that in no case shall a story be more than twelve (12) feet high. In computing the height of buildings, the height of basement or cellar, if below grade, shall not be included.

**Street**

For the purpose of this ordinance, a street shall be construed to mean a public right-of-way which affords the principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road and any other thoroughfare except an alley or private street.

**Street, Private**

An accessway which is not owned or maintained by the public but which affords the principal access to abutting properties.

**Structure**

Anything construed or erected, the use of which requires location on the land, or attachment to something having permanent location on the land.

**Subdivision**

The division of a parcel of land into two (2) or more lots or parcels for the purpose, whether immediate or future, of transfer of ownership or building development or, if a new street is involved in such division, any division of a parcel of land. The term includes re-subdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

**Townhouse**

See Dwelling, Attached.

**Truck Terminal or Shipping Center**

A use where buses, trucks, and cargo are stored, where loading and unloading is carried on regularly, and where minor maintenance of these types of vehicles is performed.

**Utility**

Infrastructure and necessary accessory elements and structures providing community water, sewer, electric, and other services, including water towers, waste treatment plants, potable water treatment plants, solid waste facilities, electrical substations, water and sewage pump stations, storm water retention and detention facilities, telephone exchanges, and surface transportation stops such as bus stops and park-and-ride facilities.

**Vocational or Trade School**

A facility primarily teaching a useable skill that prepares a person for a job in a trade and meeting any licensing requirements of the Commonwealth, including barber, cosmetology, mechanical, plumbing, electrical, carpentry, and auto-mechanic trades.

**Wall Sign**

Wall sign shall include all signs or lettering projecting not more than twelve (12) inches which are placed against or attached to the front, rear or side wall of a building, but shall not include professional nameplates.

**Warehouse**

A use engaged in distribution or storage of manufactured products, supplies, and equipment.

**Wholesale Trade and Sales**

Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; or to other wholesalers. Wholesale establishment does not include contractor's materials or office or retail sales of business supplies/office equipment.

**Yard**

An open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except by trees or shrubbery or as may be otherwise provided herein. The measurement of a yard shall be termed its depth.

***Front Yard***

A yard extending across the front of a lot between the side lot lines and being the minimum horizontal distance between the street line and the main building of any projection thereof, other than steps.

***Rear Yard***

A yard extending across the rear of a lot between side lot lines and being the minimum horizontal distance between the rear lot lines and the rear of the main building or any projection other than steps. On corner lots the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.

***Side Yard***

A yard between the building and the side line of the lot and extending from the front yard line to the rear yard line and being the minimum horizontal distance between a side line and the side of the main building or any projections thereof other than steps.

**Yard or Garage Sale**

A sale conducted by an occupant of a residence alone or in cooperation with neighbors conducted for the purpose of selling surplus household items for profit or for charitable purposes. Such sales are usually conducted from a garage associated with the residence or from the yard of the residence. Garage or yard sales may be limited in the number of days of sale.

**Zoning Administrator**

The member of City staff responsible for the administration, interpretation and enforcement of the Zoning Ordinance, in accordance with the rules, procedures, and requirements of this ordinance.

### **Zoning Ordinance**

The official zoning ordinance (or “Ordinance” as referred to herein) of the City of Martinsville, Virginia.

### III. General Provisions

#### A. Purpose and Intent

The General Provisions of this Zoning Ordinance establish standards and procedures that apply to the City as a whole, rather than to any one specific Zoning District or area of the City. These provisions govern the methods by which measurements of density and lot size should be taken, limits on the use and placement of accessory structures, rules for home occupations and other home-based businesses, expectations for future infrastructure planning, and the location of communications towers and equipment.

#### B. Public and Private Streets

1. All single family detached dwellings and lots related thereto shall have frontage on, and direct access to, a public street unless otherwise approved through a site plan or special use permit process.
2. Attached dwellings, semi-detached dwellings, and multifamily dwellings, and lots related thereto, may have frontage on, and direct access to, either: (1) a dedicated public street, or (2) a private street, according to individual zoning district provisions.
3. Non-residential structures and uses, and lots related thereto, may have frontage on, and direct access to, either: (1) a dedicated public street, or (2) a private street, according to individual zoning district provisions.
4. The development of any private street is subject to the applicable approval of a site plan and easement plat, according to the site plan process established by this ordinance.
5. If access is to be provided by means of a private street, the private street, or combined private street and parking facilities, shall be constructed in accordance with any applicable City design standards and private access and parking easement requirements.
6. The classification and design requirements for all streets, public or private, shall be coordinated with the subdivision ordinance and City-approved transportation and infrastructure design requirements.

#### C. Density, Open Space, and Lot Coverage

1. The maximum residential density and corresponding yield (in terms of total allowable residential dwelling units) for a cluster subdivision or a TND-O District project shall be calculated based on the net developable area, (NDA), of the subject lot or property, with the gross area of the property or lot adjusted to exclude the terrain or other land characteristics as described by the net area definitions included in the respective cluster residential regulations or TND-O district regulations.



2. In administering the provisions of this Section, the Zoning Administrator shall have the authority to interpret the definitions of qualifying physical land uses and activities to be used for open space or landscaped open space ratios in a given district.
3. Lands in common open space shall be so covenanted and perpetually maintained, managed and owned by a nonprofit organization or other legal entity, such as a Homeowners' Association, established under the laws of the State of Virginia, provided that the City Council may, at its sole discretion, accept the dedicated of common ownership in cases where it is demonstrated to be in the best interest of the City. Such entity shall be approved by the City Attorney or designated agent as a condition of final plan approval.
4. Land proposed for open space, recreational and active community open space, or landscaped open space shall be of a shape, size and location suitable for the intended uses and shall meet the open space requirements contained in the applicable individual zoning district regulations.
5. Maximum lot coverage, where specified for certain zoning districts, shall be construed to include that portion of a lot occupied by principle structure and accessory structures, as well as all impervious surfaces.

#### **D. Accessory Uses and Structures**

1. Accessory uses and structures may be permitted in any zoning district, according to individual district regulations. Accessory uses shall be in connection with, incidental to, and on the same lot with, a principal structure which is in use and permitted in such district.
2. Except as necessary for ongoing construction activity, the storage or overnight parking of buses, school buses and commercial vehicles (including tractors and trailers) weighing over one ton is prohibited in any residential zoning district.
3. In residential districts, no motor homes, recreational vehicles, trailers or boats shall be parked on the public street right of way. No more than one of any of the above vehicles shall be parked on a residential lot. No parking of any of the above vehicles shall be permitted in a front yard of a residential lot. No such vehicle shall be used for any form of habitation on a residential lot and no such vehicle may be connected to a private or public utility.
4. Accessory structures may only be located within a rear yard.
5. No accessory building may be placed within the limits of a surface or underground public utility, recorded easement, unrecorded drainageway, alley or required fire lane.
6. No accessory structure other than garages and accessory residential dwelling units shall exceed twenty four (24) feet in height. Garages and accessory residential units may exceed twenty-four (24) feet in height with a special use permit provided that the height of the garage or accessory residential unit shall not exceed the 75% of the height of the primary residential structure.
7. No accessory structure shall be located closer than ten (10) feet from any other building or structure or as otherwise may be required by special use permit and approval of a Residential Lot Development Plan.
8. Satellite dishes, antennas, and similar devices are deemed accessory structures. These structures shall be permitted in any zoning district under the following conditions:
  - a. No satellite dish, antenna, and similar device may be located within a front yard, provided that this requirement may be waived at the sole discretion of the Zoning

### **III. General Provisions**

Administrator upon satisfactory demonstration by the applicant that satellite service cannot be obtained elsewhere on the applicant's lot.

- b. No satellite dish, antenna, and similar device may be located closer than ten (10) feet from any property line.
  - c. In residential districts, no satellite dish, antenna, and similar device may be more than ten (10) feet in height measured at ground grade, nor may they exceed district height requirements if attached to a residence, nor may they extend more than three (3) feet in diameter.
  - d. In commercial and industrial districts, no satellite dish, antenna, and similar device may be more than twenty (20) feet in height measured at ground grade, nor may they exceed district height requirements if attached to a building, nor may they extend more than ten (10) feet in diameter.
  - e. Satellite dishes, antennas, and similar devices that exceed the above restrictions and dimensions may be allowed individually approved by the Special Permit process described elsewhere within this ordinance.
9. Swimming pools may occupy a required rear yard, provided that they be at least ten (10) feet from any lot line or from any primary structure. Swimming pools are not permitted in front yards. Swimming pools shall be fenced and gated in a manner that adequately provides for the safety of persons on the subject lot and control of access to the swimming pool. The pool shall be landscaped in a manner satisfactory to the Zoning Administrator, and subject to Residential Lot Development Plan approval.

#### **E. Public Sanitary Sewerage Facilities**

1. The City, at its option, may develop a Sanitary Sewerage Facilities Master Plan to determine the projected sewerage flow, collection mains and facilities, easements, and costs to provide ultimate sewerage service to City drainage sheds at full development of those sheds. Such facilities plan shall be designed to and in accordance with the adopted Comprehensive Plan. The facilities cost shall be updated annually by applying the appropriate Engineering News-Record cost index factor. The facilities plan shall be adopted by City Council.
2. Upon adoption of a Sanitary Sewerage Facilities Master Plan, a subdivider or developer of land may be required to pay a pro rata share of the cost of providing reasonable and necessary sanitary sewerage facilities which may be outside the property limits of the land owned or controlled by the subdivider or developer, but necessitated or required, at least in part, by the construction or improvement of such land, in accordance with the intent and provisions of Section 15.2-2243 of the Code of Virginia, the adopted Comprehensive Plan, the adopted Sanitary Sewerage Facilities Master Plan, the subdivision ordinance, and this ordinance.
3. The policy and criteria for determination of pro rata share of total cost, financial and implementation procedures and other related matters shall be the responsibility of the City Manager and adopted by the City Council as part of the Sanitary Sewerage Facilities Master Plan.

### **III. General Provisions**

## **F. Public Water Facilities**

1. The City, at its option, may develop a Public Water Facilities Master Plan to determine the projected public water demand, distribution mains and facilities, easements, and costs to provide ultimate public water services to City drainage sheds at full development of those sheds. Such facilities plan shall be designed to and in accordance with the adopted Comprehensive Plan. The facilities cost shall be updated annually by applying the appropriate Engineering News-Record cost index factor. The facilities plan shall be adopted by City Council.
2. Upon adoption of any public water facilities plan, a subdivider or developer of land may be required to pay a pro rata share of the cost of providing reasonable and necessary water facilities which may be outside the property limits of the land owned or controlled by the subdivider or developer, but are necessitated or required, at least in part, by construction or improvement of such land in accordance with the intent and provisions of Section 15.2-2243 of the Code of Virginia, the adopted Comprehensive Plan, the adopted Public Water Facilities Master Plan, the subdivision ordinance and this ordinance.
3. The development of City policy and criteria for determination of pro rata share of total cost, financial and implementation procedures and other related matters shall be the responsibility of the City Manager and shall be approved and adopted by the City Council as part of the Public Water Facilities Master Plan.

## **G. Storm Drainage and Stormwater Management Facilities**

1. The City, at its option, may develop and adopt a Storm Drainage and Stormwater Management Facilities Master Plan to determine the projected storm drainage impacts, pre- and post-development runoff quantities and flow, storm drainage culverts and pipe systems, storm drainage ditches and structures, stormwater management facilities, waterfront protection measures, best management practices facilities (BMPs), easements and costs to provide adequate and necessary drainage improvements to the City's drainage sheds at full development of those sheds. This plan shall be designed to and in accordance with the future land uses on the adopted Comprehensive Plan. The facilities and improvements cost shall be updated annually by applying the appropriate Engineering News-Record cost index factor. The facilities plan shall be approved and adopted by City Council.
2. Upon adoption of a Storm Drainage and Stormwater Management Facilities Master Plan, a subdivider or developer of land may be required to pay a pro rata share of the cost of providing reasonable and necessary storm drainage improvements facilities which may be located outside the property limits of the land owned or controlled by the subdivider or developer, but necessitated or required, at least in part, by the construction or improvement of such land, in accordance with the intent and provisions of Section 15.2-2243 of the Code of Virginia, the adopted Comprehensive Plan, the adopted Storm Drainage and Stormwater Management Facilities Master Plan, the subdivision ordinance, and this ordinance.
3. The policy and criteria for determination of pro rata share of total cost, financial and implementation procedures and other related matters shall be the responsibility of the City Manager and adopted by the City Council as part of the Storm Drainage and Stormwater Management Facilities Master Plan.

## **III. General Provisions**

## H. Lot and Yard Requirements

1. No structure or part thereof shall hereafter be constructed or moved on a lot which does not meet all of the minimum lot area and yard requirements established for the zoning district in which the structure is or is planned to be located except when allowed by special use permit or as otherwise approved by the Zoning Administrator.
2. The minimum lot width shall be measured at the closest point of the side lot lines approved on the final subdivision plat. For lots fronting curved streets, the front yard setback will be established parallel to the street as measured constructing tangent points from the street. Each lot must maintain a minimum street frontage as indicated in the individual zoning district, unless otherwise modified and approved at the sole discretion of the Zoning Administrator in conjunction with the approval of plat and Residential Lot Development Plan for the subject lot.
3. Pipestem lots, flag lots, or similar are not permitted by right in any residential district, but may be approved subject to a special use permit and approval of a Residential Lot Development Plan.
4. Cornices, awnings, eaves, Americans with Disabilities Act (ADA) ramps, gutters, and other similar structural overhangs at least eight feet above grade may extend not more than three feet into any required yard.
5. Uncovered and unenclosed decks, porches, patios, terraces and other similar features not covered by a roof or canopy (excluding driveways) may extend or project into a front, side or rear yard setback line not more than three (3) feet.
6. Chimneys, solar devices, architectural features or the like, may project into required yards not more than thirty (30) inches, provided that building separation meets all applicable building codes. No such feature shall connect a principle structure with an accessory structure unless the accessory structure conforms with setbacks applicable to principle structures and all building code requirements are met.
7. No commercial above ground fuel storage tanks may be located less than one hundred (100) feet from any residential district. Canopies and pump operations are not classified as accessory buildings and shall comply with standard principal building setbacks for the district concerned.

## I. Condominiums

Notwithstanding the specific minimum lot size requirements and minimum yard requirements specified for a given zoning district, a single family detached, semi-detached, attached dwelling or multifamily residential or mixed-use condominium development and other forms of real estate condominiums may be permitted under the Condominium Laws of Virginia.

Condominium developments shall comply with the density and other provisions of the zoning district in which they are located, and, further, shall endeavor to otherwise respect the intended geometry for the yard and lot regulations for such uses as if lot lines were to exist, as determined by the Zoning Administrator.

## III. General Provisions

## J. Home Occupations

1. The operation of small home-based businesses within a residential dwelling or residential zone is allowed under certain circumstances, even where similar businesses would not be allowed as a stand-alone commercial use.
2. A home occupation permit shall be approved by the Zoning Administrator prior to commencement of business operations.
3. The home occupation shall, in the opinion of the Zoning Administrator, be clearly incidental to the use of the premises for dwelling purposes.
4. The home occupation shall be conducted only by direct family members residing on the premises and not more than one person who is not a direct member of the family, except as otherwise provided in this section.
5. The home occupation shall not result in the alteration of the appearance of the residential dwelling unit or the lot on which it is located. There shall be no storage or display of goods outside of a completely enclosed structure.
6. The home occupation shall be conducted only within the dwelling, shall not require external alternative to the appearance of the dwelling, and shall involve no equipment which is deemed to be in conflict with the intent of the residential nature of the community.
7. The home occupation shall not involve the use or storage of explosives, flammable or hazardous materials and may not involve any process that produces smoke, dust, odor, noise, vibration, or electrical interference, which in the opinion of the Zoning Administrator, is deteriorative or harmful to surrounding properties.
8. The home occupation shall not involve the delivery and storage of materials at a frequency beyond that which is reasonable to the residential use of the property.
9. Any use which generates excess traffic to and from the home shall not be permitted as a home occupation. Ten (10) vehicle trips per day per dwelling unit (inbound and outbound) shall serve as a guideline upon which this requirement shall be regulated.
10. There shall be no group instruction, assembly or activity, or no display that will indicate from the exterior that the dwelling is being utilized in part for any purpose other than that of a residential dwelling.
11. No home occupation shall be permitted which comprises more than twenty-five (25) percent of the gross floor area of the dwelling or more than 800 square feet of the dwelling, whichever is less. A home occupation shall comply with all applicable City, State and Federal laws and regulations governing the intended use, including applicable business licenses and permits.
12. Any home occupation, which in the opinion of the Zoning Administrator, has violated the provisions of the home occupation permit or becomes a burden to the neighborhood due to excessive traffic, noise, hours of operation, lighting, or use intensity, shall have its permit revoked and the home occupation shall discontinue or correct operations within ten days upon notification.
13. Any person aggrieved by the action of the Zoning Administrator in granting, denying or revoking a home occupation permit or in stipulating conditions or corrections thereto may appeal the decision to the Board of Zoning Appeals.
14. Within the context of the above requirements, home occupation uses include, but are not limited to, the following:

## III. General Provisions

- a. Artist, sculptor, graphic designer or photographer
  - b. Author or composer
  - c. Computer programmer, internet service provider or individual conducting a computer-oriented technology services
  - d. Home day care provider (child or adult day care for 4 or fewer children or adults who are not related to the property owner or care provider). Care of up to 12 children or adults may be allowed by Special Use Permit when all State licensing requirements are met.
  - e. Tailor or seamstress
  - f. Professional or home office
  - g. Tutoring, limited to two students at any one time
  - h. Salesperson, provided that no retail or wholesale transactions occur on premises
  - i. Telephone operator, sales, or similar service
  - j. Music teacher, limited to two (2) students at any one time
  - k. Other use similar to and not to exceed the intensity of those listed above, as may be approved at the sole discretion of the Zoning Administrator
15. Specifically prohibited home occupation uses include, but are not limited to, the following:
- a. Auto repair or auto paint shop
  - b. Gift shops
  - c. Adult entertainment businesses
  - d. Medical and dental clinics
  - e. Veterinary activities and kennels
  - f. Wrecking and towing service
  - g. Welding and machine shop
  - h. Nursing or convalescent homes
  - i. Eating establishments
  - j. Antique shops
  - k. Small machinery repair shop
  - j. Other similar uses, as may be defined at the sole discretion of the Zoning Administrator.

## **K. Communications Towers and Antennas**

1. For the purpose of this ordinance, commercial communication towers shall include any pole, tower, tripod, telescoping mast, or any other structure, not to include a building or water tower, which supports a device used for the transmission, retransmission or reception of electronic signals or information for commercial use as interpreted by the Zoning Administrator.

## **III. General Provisions**



2. Commercial communication towers or commercial communication antennas otherwise conforming to all the applicable provisions of this ordinance may be permitted in any zoning district, subject to the special use permit process.
3. Communication towers may also be subject to appropriate environmental or historic preservation review processes, including those required by Section 106 of the National Historic Preservation Act.
4. Commercial communication antennas shall include any device that is designed, and/or adaptable, for mounting on preexisting or new structures, for example nonresidential buildings or water towers, and used for transmission, retransmission, or reception of electronic signals or information for commercial use as interpreted by the Zoning Administrator.
5. A commercial antenna that is used for the one hundred and eighty (180) degree transmission, retransmission or reception of electronic signals or information for commercial use shall be considered a directional or panel antenna.
6. A commercial antenna that is used for the three hundred and sixty (360) degree transmission, retransmission or reception of electronic signals or information for commercial use shall be considered an omni-directional or whip antenna.
7. No telecommunication tower(s) shall be located within five hundred (500) feet of a residential zoning district unless the applicant can otherwise demonstrate by providing coverage, interference and capacity analysis that the proposed location of the antenna is necessary to meet the frequency reuse and spacing needs of the wireless telecommunications facility and to provide adequate coverage and capacity to areas which cannot be adequately served by locating the tower(s) in a less sensitive area.
8. Commercial communication tower(s) and supporting commercial communication antenna(s) are permitted subject to approval of a special use permit in the following locations regardless of the underlying zoning district:
  - a. Church sites when camouflaged as steeples or bell towers
  - b. Park sites when compatible with the existing environment and nature of the park
  - c. Government, school, utility and institutional sites
9. The maximum height for commercial communication towers shall be one hundred and fifty (150) feet, and the minimum setback distance from the base of the commercial communications tower to any property line or to any adjacent nonresidential structure shall be equal to one-half (1/2) the height of the tower, unless the City Manager or Planning Commission grants a waiver due to special or unusual characteristics as demonstrated by the applicant.
10. The following general criteria shall be considered in determining the appropriateness of sites for commercial communication tower(s) and commercial communication antenna(s) when considering a special use permit:
  - a. Whether the proposed tower is to be located in an area where it would be unobtrusive to surrounding uses and would not substantially detract from the local aesthetic or neighborhood character
  - b. Whether the application represents a request for multiple use of a proposed tower(s) as is recommended in the City's Comprehensive Plan
  - c. Whether the application exhibits how the site and the tower(s) and/or antenna(s) will be designed and arranged to accommodate future multiple users
11. Photo simulations of the "before and after" visual impacts of the tower(s) shall be submitted to the City with the special use permit application.

12. Line of sight profiles depicting the proposed tower with attached antenna(s) and arrays from no fewer than three (3) locations, including all critical view-sheds determined by the Zoning Administrator, shall be submitted at the time of initial application for all towers in excess of fifty (50) feet.
13. Directional or panel antenna may not exceed three (3) feet in width and six (6) feet in height per individual antenna, and must be either sufficiently screened so as not to be visible from a public right-of-way or camouflaged by the use of color, textures or materials so as to match the surface on which they are mounted.
14. Omni-directional or whip antenna may not exceed three (3) feet in width and twenty (20) feet in height per individual antenna, and must be either sufficiently screened so as not to be visible from a public right-of-way or camouflaged by the use of color, textures or materials so as to match the surface on which they are mounted.
15. In the event the tower(s) and antenna array(s) shall serve as the primary use of the property, any accessory facility or building greater than one hundred (100) square feet will be designed so as to be architecturally compatible with principal structures on the site and shall be compatible with the surrounding natural or built-up environment.
16. No communications equipment shall be installed which will interfere in any way with the City's emergency communications system.
17. Advertising or signage provided for any use other than to provide warning or equipment instruction and/or any other information pertinent to the safe operation of the facility on any portion of the tower and/or antenna or any other accessory facility shall be prohibited, and each tower shall maintain a gray or other neutral colored finish.
18. Towers shall not be artificially lighted, unless required by the Federal Communications Commission (FCC) and the Federal Aviation Administration (FAA) or other applicable authority. If lighting is required, the Planning Commission and the City Council shall review the available lighting alternatives and approve the engineering design solution that would create the least visual disturbance to the surrounding area.
19. Tower(s) and antenna(s) in excess of fifty (50) feet in height shall include screening as deemed necessary by the Zoning Administrator.
20. The applicant shall possess a communication license issued by the FCC and any other federal regulatory agency as deemed necessary by the City, and the site selection, design and operation of the facility must meet all applicable State and Federal requirements and regulations.
21. If at any time the use of the tower(s) and/or antenna(s) ceases, the owner or lessee of the tower(s) and/or antenna(s) shall dismantle and remove it within six (6) months after ceasing to use it, unless:
  - a. A binding lease agreement with another wireless communications provider on the same tower has been executed in which case an additional six (6) months shall be granted
  - b. The City requests, in writing, that the tower(s) and/or antenna(s) be reserved for City use

## L. Yard Sales

Such sales as defined in Section II of this ordinance shall be permitted in all zoning districts within the city. The following operating requirements shall apply to all yard/garage sales:

## III. General Provisions

1. All on street parking in connection with garage/yard sales shall be in compliance with city parking regulations.
2. It shall be unlawful for any person to hold more than two (2) yard/garage sales in a calendar year.
3. It shall be unlawful for any person to conduct a yard/garage sale lasting longer than three (3) consecutive days.
4. No signs advertising the sale or giving directions to the location shall be used, erected or allowed, except one sign shall be allowed in the front yard of the sale location and one additional sign shall be allowed at the terminus of the side and collector streets where the streets intersect major thoroughfares, not to be located within the street right-of-way, during the time of the sale. All such signs shall be removed within twenty-four (24) hours of the conclusion of such sale.

### M. Day Care Centers

Any day care center allowed under this Zoning Ordinance shall meet or exceed all State of Virginia requirements and regulations pertaining to such establishments, including, but not limited to, those regulations requiring minimum square footage of indoor and outdoor play space. Such requirements are found in Virginia Code 22VAC40-185, and reproduced here as they exist at the time of this writing:

1. Indoor space shall be measured inside wall-to-wall excluding spaces not routinely used by children as referenced in subdivisions 1 and 2 of this subsection:
  - a. Areas not routinely used for children's activities shall not be calculated as available space.
  - b. Space not calculated shall include, but not be limited to, offices, hallways, restrooms, kitchens, storage rooms or closets.
2. There shall be 25 square feet of indoor space available per child until subdivisions 1 and 2 of this subsection take effect.
  - a. Effective June 1, 2008, applicants must have 35 square feet of indoor wall-to-wall space per child.
  - b. Current licensees and subsequent licensees at currently licensed facilities may continue to provide 25 square feet per child.
  - c. New additions shall have 35 square feet of indoor wall-to-wall space per child effective June 1, 2008.
3. Space in areas used by infants shall be calculated separately from space for older children. There shall be a minimum of 25 square feet of space per infant excluding space occupied by cribs and changing tables or a minimum of 35 square feet of available space per infant including space occupied by cribs and changing tables.
4. Camps for school age children are not required to meet this space requirement. However, when weather prevents outdoor activities, the required indoor space per child shall be provided either at the program site or at a pre-designated, approved location off site.
5. When children are on the outdoor play area, at least 75 square feet of space per child shall be provided at any one time.
6. Centers licensed for the care of infants and toddlers shall provide a separate playground area for these children that has at least 25 square feet of unpaved surface per infant/toddler on the outdoor

## III. General Provisions

area at any one time. This space may be counted as part of the 75 square feet required in subsection B of this section.

7. A separate space shall be designated for children who are ill or injured.

## **N. Short Term Rental Occupancy**

1. Short-term rental occupancy is a form of property and building use wherein a room or space located in a residential dwelling or qualifying accessory residential structure that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period limited to fewer than thirty (30) consecutive days, in exchange for a charge for the occupancy.
2. Short term rental of a portion or all of a residential dwelling or a qualifying accessory residential unit shall be permitted by-right in any residential or mixed-use zoning district in the City of Martinsville, provided that the use, dwelling, and lot meet the following requirements:
  - (a) the owner or designated overseer of a short term rental dwelling shall not provide food or beverage of any type to the short-term occupants,
  - (b) the use of the dwelling shall comply with all requirements of the zoning district in which the dwelling is located,
  - (c) no exterior signage or other form of exterior advertising shall be displayed on the residential property,
  - (d) no more than two (2) adult lodgers may occupy a bedroom in any dwelling unit (exclusive of children under the age of 12),
  - (e) adequate off-street parking for short-term rental occupants shall be provided on the short-term rental property unless this requirement is otherwise waived by the Zoning Administrator,
  - (f) the dwelling to be rented meets the building and health code requirements for such use as may be determined by Martinsville building and health enforcement officials.
  - (g) the dwelling shall be zoned and/or approved for a residential use,
  - (h) the owner or its designated overseer shall be available to the renter at all times ("24/7") for the purpose of attending to any inquiry, complaint, or maintenance issue that may arise during the renter's short-term occupancy of the dwelling,
  - (i) the owner or its designated overseer shall provide full cleaning services, linens, towels, and bathroom accessories to short-term rental occupants,
  - (j) the owner shall be a full-time resident of the property and shall reside in the primary residential dwelling when the property is not otherwise occupied, either in whole or in part, by the short-term occupant, and
  - (k) other requirements as may be adopted by the City as a condition of approval and operation of short-term occupancy.
3. The implementation and enforcement of this section is subject to the City's establishment and adoption of: (a) any additional code requirements for a short-term dwelling outside the scope of this ordinance, (b) a system of registry for short-term occupancy providers, and (c) a system of administration, oversight, inspections, and penalties for violations. Upon the adoption of such code,

registry and administrative requirements, other provisions of the Virginia enabling statute governing short-term rentals may be incorporated by separate action by the City Council where deemed appropriate.

4. The City may, but shall not be required to, adopt a fee structure for such registration related to the actual costs of establishing and maintaining the registry and other administrative overheads. The imposition of such fee structure shall be subject to its adoption by the City Council.
5. Upon adoption of a short-term registry and fee structure, if required, by the City, the owner of a short-term rental property shall be required to register and obtain any necessary permits for short-term occupancy within ninety (90) days of first occupancy by a short-term renter or first advertisement of the property, whichever comes first.
6. Nothing in this section shall be construed to supersede or limit contracts or agreements between or among individuals or private entities related to the use of real property, including recorded declarations and covenants, the provisions of condominium instruments of a condominium created pursuant to the Condominium Act (Code of Virginia § 55-79.39 et seq.), the declaration of a common interest community as defined in § 55-528, the cooperative instruments of a cooperative created pursuant to the Virginia Real Estate Cooperative Act (§ 55-424 et seq.), or any declaration of a property owners' association created pursuant to the Property Owners' Association Act (§ 55-508 et seq.).

## *IV.* Site Plan Regulations

### A. Purpose and Intent

#### 1. Title and Application:

Where applicable, the City shall require submission and approval of a site plan and a public improvements plan prior to the issuance of zoning permits and building permits or the approval of a final subdivision plat to ensure the compliance with regulations contained in the Zoning Ordinance (hereinafter "Ordinance") and, specifically, this Section, which shall be hereinafter referred to as the "Site Plan Regulations" pursuant to Section 15.2-2286 of the Code of Virginia.

#### 2. Relationship to Other Plans:

The site plan requirements shall be employed to facilitate and coordinate the implementation of the City's comprehensive plan, zoning ordinance, subdivision ordinance and other applicable planning documents. For most qualifying projects and development related activities, both a Concept Plan and a final Site Plan shall be required to facilitate the application and review process. Such plans provide for a balanced development policy that accommodates and directs future growth in a manner sensitive to existing amenities, sensitive environmental areas, historic areas and significant cultural features. There is mutual responsibility between the City and the developer to develop land within Martinsville in an orderly manner in accord with the adopted Comprehensive Plan and this ordinance.

#### 3. General Purpose and Process:

- a. The purpose of this section is to facilitate the utilization of the most advantageous site improvement techniques in the development of land within the City. The site plan requirements promote contemporary standards in the siting, design, landscaping, and implementation of site development to ensure that land is used in a manner which is efficient and harmonious with neighboring properties.
- b. This section also provides for a site plan review process by City staff and establishes requirements for residential lot development plans within certain districts.
- c. Site plans and public improvements plans, landscape plans, plats, design calculations, construction specifications, and architectural drawings, to be prepared and approved in accordance with the provisions of this section and the subdivision ordinance (if applicable), shall be required by the City in the review of site development applications.
- d. Nothing herein shall require the approval of any development or land use, or any feature thereof, which shall be found by the Planning Commission to constitute a danger to the public health, safety or general welfare, or which shall be determined by the Planning Commission to be a departure from, or violation of, sound engineering design or standards.
- e. Applicants shall meet with the Zoning Administrator to discuss the scope of the proposed development and its relationship to City requirements. A pre-application conference and concept plan shall be required prior to the submission of a site plan.

- f. No work or site preparation may begin before the applicant for a project has received an approved site plan, erosion and sediment control plan, stormwater management plan, and subdivision plat (if required).

4. Non-Conforming Uses, Structures and Sites (General):

A change or addition to any non-conforming use, structure, or site subject to a major or minor site plan shall require that the entire use, structure, or site (including both the non-conforming and conforming improvements) be brought into full conformance with all of the requirements of this ordinance, provided that the Planning Commission, upon recommendation by the Zoning Administrator, may waive a portion or all of the individual requirements for conformance.

5. Costs of Development:

The developer shall be responsible for all costs incurred in planning, engineering, bonding, constructing, installing and testing of all public facilities and infrastructure as well as other necessary improvements required to complete the proposed project.

6. Fees:

The developer shall pay all applicable plan review fees at the time of submission of a site plan or plat, including pro-rata share fees for off-site improvements and cash proffers. Fees for site inspections and other aspects of the development process shall be due and payable in accord with the schedule of fees. A site development fee schedule shall be made available by the Zoning Administrator.

## B. Section Administration

1. General:

The City Council designates the Zoning Administrator to review and act to approve or disapprove site plans within its jurisdiction. In the performance of its duties, the Zoning Administrator shall request and consider the review and comments of the Zoning Administrator or designee, City staff, and other public agencies as may be deemed appropriate.

2. Authority to Review and Approve Site Plans:

The Zoning Administrator shall administer, review and provide a recommendation concerning any site plan or public improvements plan submission. Subject to the scope and nature of the planned project, final approval of any given site plan may be granted by the Zoning Administrator subject to input and recommendations from reviewing staff and agencies.

- a. The Zoning Administrator shall be responsible for the receipt and processing of all site plan applications subject to the procedures as hereinafter provided.
- b. The Zoning Administrator may establish, from time to time, such proper and reasonable administrative procedures, in addition to those provided herein, as shall be necessary for the proper administration of this section.
- c. It shall be the responsibility of the applicant, owner or developer to notify the Zoning Administrator when each stage of the development shall be ready for field inspection for compliance with the approved site development plan in accordance with testing and inspection schedules and regulations promulgated by this section, ordinance and the City's adopted design and construction standards.

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- d. City staff and other designated public officials responsible for the supervision, inspection, testing and enforcement of this section shall have the right to enter upon any property subject to the provisions of this section and ordinance at all reasonable times during the periods of plan review and construction for the purpose of ensuring compliance with this section.

### C. Uses Requiring a Site Plan or Public Improvements Plan

A final site plan for land development activities is required for projects involving the following:

1. Uses in any commercial, business, mixed-use or TND zoning district
2. Uses in any economic development (industrial) zoning district
3. Non-residential uses within any residential zoning district
4. Attached or multifamily residential uses within any zoning district
5. Uses requiring a special use permit in any district
6. Enlargement of a building which results in changes in onsite parking requirements, provided that such enlargement exceeds twenty-five percent (25%) of the gross floor area of the original building or 2500 square feet, whichever is less
7. Uses and facilities which impact wetlands or designated streams and waterways
8. Installation, extension or change of a public water or sewer main or other public infrastructure requiring a public right of way or dedicated easement to the City of Martinsville.
9. Parking lots intended for either commercial or public use in a residential, commercial or economic development zoning district
10. Installation or change of a public water or sewer pump facility
11. Installation or change of a public water storage facility
12. Installation or change of a public water or sewer treatment facility or installation or change of a private sewer treatment or pretreatment facility
13. Construction of a new street or extension of an existing street and related infrastructure
14. Development of a road or street lying within a previously platted public right of way or easement
15. Construction of a private commercial or industrial road entrance or intersection with an existing or proposed public street
16. Construction of a retaining wall that abuts or is adjacent to a public right of way, private street, or alley
17. Any disturbed areas greater than 5,000 square feet in total land area, except single family detached dwellings and other uses that are exempted by erosion and sediment control regulations
18. Enlargement of a parking lot in a residential, commercial or economic development zoning district, increasing parking spaces by more than ten (10) spaces
19. Any development in a residential, commercial or economic development zoning district in which any required off-street parking space requiring more than ten (10) parking spaces which is to be used by more than one establishment.

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#### D. Waiver of Requirement for Site Plan

A waiver for submission of a site plan may be granted by the Zoning Administrator under following considerations:

1. Where it can be clearly established by the applicant that the use will not require the improvements subject to review in this section.
2. Where it can be clearly demonstrated by the applicant that a waiver from the requirement to submit a site plan (or a portion thereof) will be in keeping with the intent of this section, provided that the requirement for a Public Improvements Plan required by the Subdivision Ordinance may not be waived.
3. Where it can be clearly shown that the application for a site plan and building permit involves building and safety regulations which are not critical to the purpose and intent of this ordinance.
4. Where it can be clearly established by the applicant that such waiver will not have an adverse effect on (a) the public health, safety, welfare, and convenience, (b) the planning for and provision of adequate public facilities, utilities, drainage, environmental controls, and transportation facilities, (c) preservation of agricultural, forestry and conservation lands, and (d) other relevant considerations related to the Comprehensive Plan.
5. Where it can be shown that any change in, or expansion of, a use meets all of the following criteria:
  - a. Such change or expansion does not occasion additional parking as required by this ordinance
  - b. No additional ingress/egress to a public street or change in ingress/egress is recommended by the Zoning Administrator based on intensification or use
  - c. No additional ingress/egress or alteration of existing ingress/egress is proposed.
  - d. Disturbed area is less than 5000 square feet in area.
  - e. It has been verified in writing by the Zoning Administrator that availability and connection to water and sewer are attainable.
  - f. All requirements of the subdivision ordinance have been met.
6. An applicant seeking a waiver from a requirement to submit a concept plan or a site plan (or any portion thereof) shall provide written documentation to the Zoning Administrator addressing all of the applicable above conditions for waiver. Subject to the scope and impact of the requested waiver, the Zoning Administrator, at its sole discretion, may either; (a) act upon the waiver request, or (b) refer the waiver request and applicant's supporting documentation to the Planning Commission for action at its next regularly scheduled meeting.
7. The applicant shall be notified in writing by the Zoning Administrator within ten (10) business days upon action by either the Zoning Administrator or the Planning Commission.
8. Notwithstanding any grant of waiver by the Zoning Administrator or the Planning Commission, the applicant is required to show evidence of having obtained a building permit, erosion and sediment control permit, subdivision ordinance approval, other applicable State or Federal permits, and, upon completion of improvements, a certificate of occupancy.

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## E. Pre-Application Conference and Concept Plan

### 1. Requirement for Pre-Application Conference and Concept Plan:

- a. A pre-application conference and concept plan shall be submitted by the applicant prior to undertaking the formal submission and review process for a site plan. The goal of the pre-application conference is to identify, understand and anticipate key planning issues and site-related design issues which may be deemed relevant by the City.
- b. The pre-application conference provides the opportunity for the applicant and the City to assess the specific requirements for a subsequent site plan submission and to determine which, if any, of the requirements of this section may be waived or amended by the Zoning Administrator.
- c. A pre-application conference does not negate the requirement for the submission of: (1) a concept plan, (2) a final plat (or public improvements plan as may be required by the Subdivision Ordinance), (3) a site plan, (4) erosion and sediment control plan, (5) applicable State (including DCR/DEQ permit plans) and Federal permits, (6) any other applicable provisions of this ordinance and other City ordinances, and (7) site plan review fee and other related inspection or application fees.

### 2. Pre-Application Conference Objectives:

The applicant shall contact the Zoning Administrator to schedule a Pre-Application Conference. The purpose of this conference is to review and provide guidance on the applicant's concept plan and other aspects of the applicant's land use proposal with respect to the following considerations:

- a. Project location, type and mix of uses, lot configuration and setback, conceptual design, density, physical characteristics and phasing of proposed development.
- b. Compatibility of the proposed development with the City's comprehensive plan, the zoning ordinance, the subdivision ordinance, the stormwater management ordinance, all adopted master facilities plans, the capital improvements program, and plans for development of neighboring properties.
- c. Coordination of transportation improvements with other existing and planned streets within the general area of the proposed development and otherwise in keeping with the provisions of the transportation element of the comprehensive plan and other adopted transportation plans.
- d. Reasonable regulations and provisions uniquely applicable to the proposed development as related to topography, soils, geology, public utility and facilities service, drainage and flood control, transportation, environmental and historic impact, economic development, and facilitation of the creation of a convenient, attractive and harmonious development.
- e. Coordination of proposed development with applicable ordinances, design guidelines and development criteria.
- f. Assurance of adequate public utility location and capacity (water, sewer, etc.)
- g. Other matters related to review of a concept plan.

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### 3. Information Required on a Concept Plan:

The concept plan is intended to graphically depict and communicate the primary elements of an applicant's proposed project. The concept plan is not intended to be a detailed engineering document and may be generalized in nature. It provides the opportunity for the applicant and the City review and provide preliminary feedback on the key physical elements of a project that are of mutual interest and relevance to the health, safety, and welfare.

The applicant, at its discretion, may meet with the Zoning Administrator in advance of preparation of the concept plan to determine if any of the requirements herein below may be waived or modified. A pre-application checklist shall be employed for this purpose. Five (5) copies of the concept plan and any supporting documentation shall be submitted to the Zoning Administrator ten (10) business days prior to the scheduled date of the Pre-Application Conference. The concept plan and supporting documentation shall also be submitted in a digital format (PDF preferred).

The concept plan shall show the following:

- a. Name, address and telephone number of owner or developer
- b. Map scale (to be one inch equal to not more than thirty (30) feet, with a maximum sheet size of 24" x 36", and date of plan preparation)
- c. Name, address and telephone number of preparer of concept plan
- d. Vicinity map
- e. Current boundary survey of the lot and a north arrow; preparer of survey
- f. The area of the lot and gross acreage or square footage of area to be developed
- g. Public frontage improvements; the location of the proposed and existing right of way, proposed edge of pavement or curb line, and other public improvements along the frontage of the property
- h. Size, location and use of existing and proposed buildings
- i. Location of the proposed transportation and site improvements (including points of site access, utilities, drainage conveyance, building and site signage, buildings, streets, site lighting, driveways and parking areas, retaining walls), and distances from all property lines
- j. The dimension, height, and use of the proposed building improvements
- k. Limits of clearing and grading
- l. Existing zoning district (including conditional zoning and proffer agreements) and, if a rezoning is required, the proposed zoning district (including overlay districts, where applicable)
- m. Existing topography and a preliminary grading plan depicting finished contours, with contour intervals of five (5) feet or less
- n. Proposed location, alignment, easements, and sizing of proposed utility service for potable water, fire protection and sanitary sewer.
- o. Certification in writing from the City that availability and connection to water and sewer are attainable

- p. Approximate location of wetlands and impacts of the proposed development thereon, with copies of state and federal permit applications and permit approval related to any proposed disturbance to the wetlands
- q. Approximate location of 100-year floodplain boundaries and impacts of the proposed development thereon, employing FEMA mapping where available and for areas where development may encroach upon areas which may be subject to periodic flooding, engineering calculations and mapping for 100-year floodplains which have not been mapped by FEMA
- r. Approximate location of planned stormwater management (SWM) facilities and best management practices (BMP), with emphasis to be placed on low impact development improvements (LID) adhering to Virginia runoff reduction methods (VRRM)
- s. Approximate location of significant geological formations which could impact the proposed development, including significant rock outcrops
- t. Site plan construction phasing (or public improvements and subdivision phasing, if applicable) for the proposed development, if the project is to be developed in more than one phase, with a narrative explanation of how phasing and completion of project is to be accomplished
- u. References to and location of survey datum, employing the State Plane Coordinate System (specifically indicate State Plane Zone and a NAD coordinate system) and National Mapping Standards accuracy for urban surveys
- v. Information related to subdivision of the parcel, if applicable.

## F. Minimum Design and Construction Standards

To assure the public safety and general welfare, no site plan shall be approved unless and until the City is assured that the following improvements and minimum design criteria will be implemented as required. In addition to requirements outlined herein, all site improvements are to be provided in accord with the City's adopted design and construction standards, the stormwater management ordinance, subdivision ordinance, and the erosion and sediment control ordinance.

### 1. Street Construction and Design Standards:

All street and highway construction and geometric design standards shall be in accord with the City's design and construction standards and any applicable VDOT design and construction standards which have been adopted by the City.

- a. All development in all zoning districts must have direct access to public dedicated streets or highways. Such developments are to be designed so that interior parcels or lots within a larger development will not have direct access to any existing arterial highway unless the physiography, shape or size of the tract would preclude other methods of providing access via secondary streets.
- b. Where traffic generated from any development exceeds 1000 vehicle trips per day, or when a residential subdivision contains 100 or more dwelling units (whichever is less), such development or subdivision shall provide connectors to any existing public road at two locations. Where only one connection is physically achievable, the connecting portion of the entrance roadway must be of a four-lane divided standard extending

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into the development for a length of not less than 200 feet or as otherwise determined by the Zoning Administrator. No internal vehicular connections shall be permitted to this entrance section.

- c. Streets and rights-of-way shall be provided and designed to permit access to adjoining acreage in conformance with the Comprehensive Plan and other transportation plans and to the satisfaction of the Zoning Administrator and the Planning Commission.
- d. Curb and gutter shall be required for all new public and private streets in all developments and all districts, with the exception of the R-E district.
- e. Where public or private streets are to be constructed in phases, such streets shall be terminated with a temporary cul-de-sac or other temporary turn-around acceptable to the Zoning Administrator. Where temporary turnarounds are provided, adequate rights of way and/or temporary access and construction easements shall be designated on site plans and subdivision plats.
- f. Any grading or site improvement that could potentially impact safe intersectional sight distances with public or private streets shall provide for site distances consistent with current VDOT or City standards or as otherwise approved by the City Engineer. Such improvements may include, but not be limited to, landscape materials, fences, retaining walls, and signage.

## 2. Parking, Loading and Site Access:

- a. For all residential, institutional and commercial uses, other than single family homes, required off-street parking, access, and loading spaces shall be constructed of a permanent, stabilized, dust free surface such as concrete or asphalt, with curb and gutter, or of alternative design and materials as approved by both the Zoning Administrator and City Engineer.
- b. For industrial uses, all employee and customer parking, as well as all entrances into parking areas, shall be constructed of an all weather, stabilized, dust free surface which is clearly defined from adjoining onsite improvements and in accordance with the City's adopted design and construction standards.
- c. For industrial uses, surfacing may be waived only for areas used for heavy equipment parking and loading areas.
- d. Surfacing requirements may also be waived or modified for uses in the City's historic districts.
- e. Curb and gutter shall be required on all new private travelways, private streets, and travelways, loading areas and parking lots within a lot which serves 20 or more vehicles, provided that storm drainage can be adequately accommodated.
- f. Parking lots shall be adequately illuminated during non-daylight hours to provide use comfort and safety, unless otherwise waiver by the Zoning Administrator. Lighting shall be designed, shielded, and otherwise arranged to direct light and glare away from abutting properties and adjacent rights of way. Lighting fixtures in parking lots should be compatible with the architectural characteristics of the development. A lighting study may be required with the submission of a site plan.
- g. Dimensional requirements and design criteria for parking spaces, parking lots and loading areas shall be in accord with any City-adopted design and construction standards, with accepted industry standards.

- h. Refer to landscaping requirements (Section XXII) for parking lot landscaping requirements.
- i. The design measures and facilities meeting the requirements of the Virginia Stormwater Management Regulations shall demonstrate sensitivity to the physical conditions of the property and its surrounding area. Low impact development improvements, runoff reduction methods and coordinated landscape improvements shall be employed in the design of private parking areas, travelways and other impervious site improvements. Consideration shall be given to the use of porous pavement and paver alternatives where traffic volume and loading conditions permit.

3. Sidewalks and Pedestrian Walkways:

- a. Sidewalks within public rights of way shall be required on all new public streets or other areas of a site where in keeping with the Comprehensive Plan and other City public improvements plans. Sidewalks shall be constructed of concrete and otherwise in accord with the City's adopted design and construction standards, except in cases where other materials, including brick, asphalt, or other materials, may be approved by the Planning Commission based on its suitability to its environs and natural setting.
- b. Bicycle lanes and facilities shall be provided in all areas where so designated by the comprehensive plan. When an individual lot which does not involve a public street is developed, additional right-of-way to provide for future bicycle facilities may be dedicated as recommended by the Zoning Administrator.

4. Lots and Yards:

Lot and yard sizes shall conform to applicable zoning district regulations.

5. Easement Widths:

Minimum easement width shall be established as required in the City's design and construction standards.

6. Hydrologic and Hydraulic Analysis:

Engineering documentation shall be provided and certified for all storm drainage improvements, stormwater management facilities, and LID and BMP facilities. Floodplain studies may be required at the option of the Zoning Administrator. Analysis and design recommendations shall take into consideration the impact of 2-, 10-, and 100-year storm intensities, both pre- and post-development.

7. Storm Drainage Systems and Stormwater Management:

The policies for drainage systems and stormwater management are to be in accord with the City's design and construction standards, the stormwater management ordinance, and related DCR/DEQ permit requirements. Onsite storm drainage and stormwater management structures shall be constructed in concert with all site development activities and post-development runoff volumes and velocities shall not exceed pre-development levels. Design emphasis shall be placed on runoff reduction techniques that integrate site landscaping, LID, BMP and SWM facilities.

8. Water Systems:

Water distribution systems shall be designed and constructed to adequately supply both peak load demands for domestic and commercial service and fire flow requirements for the intended development, and meet all requirements of the City's adopted design and construction standards.

9. Sewer Systems:

Sewer systems shall be designed and constructed on the basis of average daily per capita flows of not less than those set forth by sewerage regulations of the State Department of Health and the City's adopted design and construction standards.

10. Street Lights, Site Lighting and Electrical Facilities:

Provisions for street lights, parking lot lighting and other site lighting shall be shown on site plans, as required by the City's adopted design and construction standards. Locations of street and parking lot light poles, fixtures, conduits, transformers, wires and easements shall be coordinated with the City and shall be shown on the site plans. Conduits of a size and location satisfactory to the City shall be located under street pavements at all proposed major intersections for the future installation of traffic control signals as required by the City.

11. Erosion and Sedimentation Control Measures:

Installation of adequate temporary and permanent erosion and sedimentation control measures, as required by the City's adopted design and construction standards and the erosion and sediment control ordinance.

12. Retaining Walls and Other Structural Improvements:

The design and construction standards for retaining walls shall be certified by a qualified design professional in conjunction with the site plan application process. The design and placement of retaining walls shall be evaluated based on the impact on sight distance at public and private street intersections, grading relative to adjoining properties, structural integrity, safety relative to the general public, and relationship to comprehensive plan recommendations for inter-parcel access. Any proposed retaining wall that is proposed for a location on or in close proximity to an adjoining property line or right of way shall demonstrate that no better alternative is available. If retaining wall construction or future maintenance requires access to an adjoining property or right of way, the applicant shall provide the City with copies of construction access and maintenance agreements with the impacted property owner.

13. Other Design Criteria:

All other design criteria and construction standards shall be in accordance with the City's adopted design and construction standards and other applicable regional, state and federal requirements, including those of the VDOT, DCR/DEQ, COE or other public agency where such entities are referenced by the City. Where standards and criteria are not provided therein for a particular site development component, the Zoning Administrator either shall provide the governing standards or shall approve a proposed standard as prepared by the applicant's engineer.

14. Construction Standards, Inspection, and Supervision:

- a. Unless otherwise specifically provided in this ordinance, the construction standards for all required onsite and off-site improvements shall conform to the provisions of this section and the City's adopted design and construction standards. The Zoning Administrator shall provide written approval of the plans, details, and specifications for all required improvements prior to commencement of construction.
- b. Inspections during the installation of the required onsite improvements shall be made by the Zoning Administrator or other City personnel, as applicable, as required to monitor compliance with the approved site plan and applicable City design and construction standards.



- c. The owner or developer shall notify the Zoning Administrator in writing forty eight (48) hours prior to the beginning of any work shown to be constructed on an approved major or minor site plan.
- d. The owner or developer shall provide adequate supervision on the site during the installation of all required improvements and have a responsible superintendent or foreman together with one set of approved plans, profiles and specifications available at the site at all times when work is being performed.
- e. The installation of improvements, as required by this section, shall in no case serve to bind the City to accept such improvements for the maintenance, repair or operation thereof, but such acceptance shall be subject to the existing regulations concerning the acceptance of each type of improvement.
- f. The applicant's contractor shall be responsible for the location of all utilities and underground infrastructure in accord with MISS UTILITY practices prior to land disturbance.
- g. It shall be the responsibility of the applicant to determine and satisfy all additional requirements as may be imposed by the subdivision ordinance. Where a site plan and subdivision plat are required, the application for and review of both plat and plan shall be undertaken concurrently.
- h. Prior to issuance of an occupancy permit, a certified "as-built" survey shall be provided to the Zoning Administrator upon completion of site improvements. Variations in the as-built conditions shall be noted. The as-built survey shall be provided in both digital and hard copy formats. It is recommended that the survey include "as-built" invert and building corner information, as well as elevation data of any stormwater management basins. At the discretion of the Zoning Administrator, a letter from the project engineer verifying that the project has been built to substantial conformance to design may be accepted in lieu of the "as-built" survey.

## **G. Site Plan Review and Approval Process**

### **1. Site Plan Submittal, Fee and Compliance Procedures:**

- a. Site Plan submission requirements: Five (5) copies of the site plan or public improvements plan and one digital copy of the site plan and public improvements plan shall be submitted to the Zoning Administrator. The plan shall be accompanied by payment of fees for review and processing. The fee shall be based on a fee schedule as may be adopted and modified from time to time by the City Council.

### **2. Initial Site Plan Compliance Requirements:**

- a. An initial review of the applicant's site plan will be made by the Zoning Administrator to determine the completeness and general compliance with the information requirements of this ordinance.
- b. Site plans which contain information required by this section, and which are consistent with the proceedings of the Pre-Application Conference, shall be deemed to be complete and shall be forwarded to all necessary reviewing agencies and staff within five (5) business days of submittal, at which time the applicant's submittal shall be

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deemed “substantially complete and accepted for review.” The applicant shall be notified of this finding in writing.

- c. Site plans and public improvements plans which lack any information required by this section, the City adopted design and construction standards and the Site Plan Checklist, and which are not consistent with the proceedings of the Pre-Application Conference shall be deemed to be incomplete and shall be rejected by the Zoning Administrator within five (5) business days of submittal, at which time the applicant’s submittal shall be deemed “incomplete and rejected” and the reasons for rejection clearly provided. Further review of the submission shall be suspended. The applicant shall be notified of this finding in writing.
- d. All features and elements of the site plan required by this section shall in all respects conform to all applicable provisions and standards of the Code of Virginia (1950), as amended, and the Code of the City of Martinsville, including, but not limited to the Code of Martinsville: Section 6, "Building Regulations"; Chapter 8, "Erosion & Sediment Control"; Chapter 19, "Streets & Sidewalks"; Chapter 23, "Water, Sewer & Sewage Disposal"; Appendix A, "Land Subdivision Ordinance," and this ordinance, Appendix B, "Zoning Ordinance".

### 3. Review Procedures for Site Plans:

#### a. Review process, general:

The site plan review process shall include participation by City staff and other reviewing agencies as determined by the Zoning Administrator. Final approval of any site plan shall be granted by the Planning Commission by majority vote at a regularly scheduled Public Hearing, subject to a decision by the Zoning Administrator to request review and approval by the Planning Commission, provided that the approval process for a public improvements plan submitted with a final subdivision plat shall be reviewed in accord with the additional provisions of the City’s subdivision ordinance.

#### b. Site plan review and notification process:

- (1) Distribution of the Site Plan for review: Within ten (10) business days after acceptance of a site plan which has been determined to be “substantially complete and accepted for review”, the reviewing staff and agencies will be issued a copy of the site plan for review and comment on the technical compliance with this ordinance and all applicable standards, provided that the site plan has been found to be in initial compliance as hereinabove stated.
- (2) Administrative site plan review: All reviews and comments shall be completed within thirty (30) business days from the date of issuance of the site plan for review. Review comments shall be provided in writing to the Zoning Administrator, who shall be responsible for preparing a site plan review report with the Zoning Administrator’s recommendations for approval, approval with conditions, or disapproval within fourteen (14) business days after receipt of all staff and agency comments.
- (3) Site plan review meeting: Prior to notifying the applicant of review comments, the Zoning Administrator, at its discretion, may determine the need for a site plan review meeting with appropriate staff and agencies for the purpose of clarifying and coordinating site plan review comments. Such meeting shall be conducted within the thirty (30) day period above mentioned for administrative site review. If a meeting is to be held, the Zoning Administrator shall be responsible for notifying

the applicant and adjoining property owners of the time, date, and location of the meeting. The Zoning Administrator shall be responsible for placing a notification of the meeting on the City's website.

It shall be the responsibility of invited Staff and agency representatives to attend the site plan review meeting upon invitation by the Zoning Administrator. Staff and agency representatives may be invited from amongst the following agencies and departments: City Managers Office, City Attorney, Public Works, City Engineer, Economic Development, Building Official, Planning, Mapping, Fire Marshall, Police Chief, and others deemed essential for the completion of the review and coordination process. Members of the Planning Commission shall be notified of each site plan review meeting.

- (4) Notice to applicant: Upon receipt by the Zoning Administrator, the applicant shall be provided with all review comments and recommendations.

In cases where site plan revisions, deletions, or additions are necessary, the applicant shall be so notified, in writing, within fourteen (14) business days after receipt of all staff and agency comments by the Zoning Administrator along with the Zoning Administrator's determination to whether or not the Planning Commission shall be asked to approve the site plan.

In cases where no site plan revisions, deletions, or additions are necessary and the Zoning Administrator has determined that the Planning Commission shall not be asked to approve the site plan, the applicant shall be so notified, in writing, of the terms and conditions of plan approval by the Zoning Administrator within fourteen (14) business days.

- (5) Revisions by applicant: Upon receipt of comments, the site plan or public improvements plan shall be revised by the applicant to comply with all review comments and requirements. The applicant shall submit such revisions together with any required re-submittal fee. Where the revised site plan does not include all requested or required revisions, the applicant will be notified that the site plan review process shall not proceed until the requested or required revisions are complete. Site plans requiring only minor revisions will be reviewed within fourteen (14) business days upon resubmission. Plans requiring substantial revisions will be reviewed on the time frame of a new submission.
- (6) Scheduling for a Planning Commission public meeting (provisional): At the sole discretion a of the Zoning Administrator, the Zoning Administrator may elect to schedule a meeting or public hearing with the Planning Commission for the purpose of obtaining additional input, recommendations or approval. Otherwise the Zoning Administrator shall act to approve, deny or amendment the site plan. Upon determination of a need for Planning Commission approval of a site plan by the Zoning Administrator and within ten (10) business days after receipt of all staff and agency comments, the Zoning Administrator shall schedule the site plan for a public hearing before the Planning Commission.
- (7) Notification of adjacent property owners, if required: Within ten (10) business days after receipt of all staff and agency comments, the Zoning Administrator shall notify in writing all adjacent property owners of the site plan request and of the scheduled time and location of the public meeting on the site plan before the Planning Commission.

- (8) Action by Planning Commission, if required: After receipt of staff comments, the Planning Commission shall act on the application and shall render a decision to approve, approve with conditions, defer or disapprove the site plan upon action at a regularly scheduled meeting.
- (9) Site Plan revisions: In consideration of site plan revisions to any site plan or public improvements plan, such revisions may be (a) approved administratively by the Zoning Administrator, or (b) approved administratively by the Zoning Administrator upon input from the Planning Commission, provided that where the Zoning Administrator is of the opinion that the site plan revision is of such a magnitude and impact that a decision on the revision should be reached only after a public meeting thereon. In such instances, a public meeting before the Planning Commission shall be scheduled prior to action on the site plan revision. If the latter, the applicant shall be notified in writing of action by the Planning Commission within five (5) business days of the action taken.

4. Approval / Denial Process:

- a. Site plans will be approved by either the Zoning Administrator or the Planning Commission if they demonstrate substantial compliance with this ordinance, as well as with the site design criteria set forth in this section and the City's design and construction standards and other ordinances, if the public facilities, utilities and site designs as designed will be able to function in a manner beneficial to the health, safety and general welfare of the public.
- b. Under certain conditions approval by other agencies not specifically referred to hereinabove shall be a prerequisite to approval by the City.
- c. In denying a site plan or public improvements plan, specific reasons shall be provided. Reasons for denial shall relate in general terms to such modifications or corrections as will permit approval of the site plan.

5. Expiration of Approval:

Final approval of any site plan (with the exception of erosion and sediment control plans) submitted under the provisions of this ordinance shall expire five (5) years after the date of such approval in accordance with the Code of Virginia, 1950, as amended, thereafter requiring re-submittal for approval. Erosion and sediment control plans expire in accordance with applicable sections of the City Code.

6. Fees:

- a. Payment of Fee: The developer shall pay fees to the City for the examination and review of a site plan submitted pursuant to this ordinance.
- b. Site Development Fee Schedule: A schedule of fees for the examination of plans and the inspection of all required improvements in such plans shall be determined by a City Council resolution, which schedule may be changed from time to time. Before approval of any site plan, such fee shall be made payable to the Treasurer, City of Martinsville and deposited into the credit of the general fund.

## H. Site Plan Requirements

### 1. Copies Required:

Five (5) sets of all site plans (or public improvements plans) and supporting documents, plus one digital copy, shall be submitted in clearly legible blue or black line copies and shall contain the information outlined in this section. Site plans which lack information required by this section, the Site Plan Checklist, and/or the City's adopted design and construction standards shall be deemed to be incomplete and shall be rejected.

### 2. Site Plan Certification:

Site plans or any portion thereof involving engineering, architecture, geology, environmental science, or land surveying shall be certified by an engineer, architect, land surveyor, or landscape architect who is duly qualified to practice and whose professional practice is duly registered by the State of Virginia.

Unless otherwise approved by the Zoning Administrator, no person shall prepare or certify design elements of site plans which are outside the limits of their professional expertise and license. All sheets and calculations submitted with any site plan shall bear the seal and signature of the respective design professional(s).

### 3. Information Required on Site Plan and Public Improvements Plan:

This section outlines the required information on site plans and public improvements plans. The applicant shall employ as many sheets as necessary to incorporate the following minimum requirements:

- The sheet size shall be no larger than 24" x 36" in size, or other sheet size pursuant to the approval of the Zoning Administrator prior to submission.
  - The minimum scale of any site plan shall be 1" = 30'.
  - All site plans shall be prepared on a current base map which depicts existing topography with contour intervals of two feet (2') or less, extending a minimum of twenty-five (25) feet minimum beyond property lines.
  - Topographic mapping shall be prepared by a Certified Land Surveyor and depict all natural and cultural features for the property, as well as supplemental existing spot elevations.
  - A north arrow shall be included on all plan sheets.
  - All sheets shall be bound into a single document, and each sheet shall include the seal and signature of the design professional.
  - A copy of the site plan checklist and the pre-application plan checklist, with documentation of waivers and modification to any requirements of this section.
- a. Project Cover Sheet - The application shall prepare a cover sheet which clearly depicts the following:
- (1) Title of project.
  - (2) Name, address, phone number and professional seal of preparer of (a) plan, (b) boundary survey, and (c) topographic mapping.
  - (3) Name, address and phone number of owner of property.
  - (4) Tax map number, parcel number, and deed book reference for parcel or parcels subject to development.
  - (5) Zoning classification (both existing and proposed, if changing)

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- (6) Description of planned land use, along with projected number of employees or amount of public or private investment (for non-residential land uses) and other information related to the activities to be conducted on the property.
  - (7) Date of plan and mapping preparation.
  - (8) Vicinity map and location of zoning district boundaries.
  - (9) Gross acreage (or square footage) of property.
  - (10) Net developable area of property and supporting calculations.
  - (11) Calculation of lot coverage; compliance with lot coverage regulations.
  - (12) Copy of rezoning conditions or proffers, special use permit conditions, and waivers or variances granted.
  - (13) A blank space, sized approximately 4" x 4", for City review and approval notations
- b. Boundary Survey Information: A current certified boundary survey of the property prepared to National Mapping Standards accuracy shall be submitted with the site plan in both paper and digital form and shall include the following:
- (1) Title, title source, and name of owner of lot and subdivision names and/or lot owners for surrounding lots.
  - (2) Metes and bounds of property. Statement of boundary survey closure accuracy and compliance with National Mapping Standards.
  - (3) Location and metes and bounds of all existing property lines, rights of way and easements.
  - (4) Names of existing streets in and adjoining the development.
  - (5) Setback and yard lines in accord with zoning requirements.
  - (6) Location of 100-year floodplain boundaries, employing FIRM mapping boundaries or engineered boundaries in absence of FIRM information.
  - (7) Tax map number, parcel number, deed book reference and zoning designation for parcel or parcels subject to development.
  - (8) Tax map number, parcel number, deed book reference and zoning designation for adjacent parcels.
  - (9) Reference to survey datum. Horizontal control shall be based on referenced to the Virginia State Plane Coordinate System in the most current North American Datum coordinate system. State Plane coordinates shall be provided on two property corners or perimeter irons.
  - (10) All digital survey data must be contained in a format acceptable to the City, and the submission of the digital file must contain a list providing the name and a brief description of each layer in the file.
- c. Minimum Information to be included in a Site Plan and Public Improvements Plan:
- (1) Location, dimensions, design sections and construction specifications of all site improvements, including, but not limited to, existing and proposed streets, travelways, alleys, driveways, curb and gutter, sidewalk, utilities, street lights, site lighting, traffic control devices and signage, retaining walls, storm drainage,

stormwater management, best management practices, erosion and sediment control measures. Information shall also include proposed street names.

- (2) Location of existing and proposed buildings and accessory structures, including land area coverage and floor elevations of proposed use(s).
- (3) Location of existing utilities within and adjacent to the development including size and elevation. Provide elevation profile where grading is proposed above existing and proposed utilities or within easement limits.
- (4) Plans and design profiles of proposed transportation improvements, including street improvements located within existing or proposed public right of way or private streets and travelways, depicting:
  - (a) street stations at appropriate station intervals.
  - (b) percent of longitudinal grades
  - (c) elevations at 50-foot stations in vertical tangent sections and on 25-foot stations in vertical curves.
  - (d) finished grades and finished grading contours (on site plans).
  - (e) spot elevations for all non-typical sections.
  - (f) locations of entrances, taper design and any necessary structures and roadway appurtenances.
  - (g) horizontal and vertical curve data, including definition of curve control points (e.g. PI, PC, PT, PVI data, etc.)
  - (h) sight distances for all crest and sag vertical curves.
  - (i) sight distances (horizontal and vertical) at all street intersections and road entrances other than single family driveways, unless warranted by unique topographical conditions and subject to waiver of requirement.
  - (j) street intersections showing spot elevations along curb radii and in pavement area to define surface drainage patterns.
  - (k) super-elevation tables shall be provided where roads and streets require super-elevation.
  - (l) typical pavement detail shown for design and cross slope.
  - (m) pavement design calculations, if required.
- (5) Site plan location and design specifications for off-street parking, travelways, parking lots, sidewalks, and loading areas, including:
  - (a) building square footage.
  - (b) site access plan for internal traffic and pedestrian circulation, including handicap access.
  - (c) size of parking spaces, angle of stalls, width of aisles.
  - (d) travelway and parking lot pavement sections.
  - (e) pavement design calculations.
  - (f) parking calculations, including ADA requirements.

- (g) provisions for emergency access / fire protection.
  - (h) location and marking of permanent fire lanes, if required.
  - (i) pavement striping and marking.
  - (j) finished grades and spot elevations at critical design points.
- (6) Location, size, design profiles and design calculations for proposed domestic water service and sanitary sewer mains and laterals. Invert and cover elevations shall be shown to the nearest 0.01' accuracy. Water system details shall include location and design of valves and hardware, water meters, water meter vaults, and fire hydrants. Location of gas, telephone, electric and other utility lines and other underground or overhead structures in or affecting the project. Plans shall include detail of utility appurtenances and construction procedures. If irrigation wells are proposed, well locations are to be designated.
- (7) Site plans for projects which incorporate improvements for utility pumping storage or treatment facilities shall be supported by appropriate structural, hydraulic, electrical and mechanical plans and construction specifications.
- (8) Detailed site grading plan depicting finished contours, to be prepared at a minimum two (2) foot contour interval, with spot elevations, as required, at key locations of paving, sidewalks, curb and gutter, signage, retaining walls, and other proposed surface improvements.
- (9) Storm drainage and stormwater management:

Site plans and engineering design profiles shall be provided for all stormwater drainage improvements related to on-site water quantity and water quality. These shall include conveyance structures, stormwater management (SWM) facilities, Best Management Practices (BMP), Low Impact Development (LID) measures, and other similar improvements, including detailed plan and section views of retention/detention ponds, underground storage structures, runoff reduction measures, and other SWM/BMP/LID facilities. Design documentation shall be provided demonstrating adherence to Virginia Stormwater Management Regulations and permit requirements in effect at the time of site plan application.

Site plan exhibits shall include the locations of existing and proposed stormwater drainage conveyance pipes, culverts, channels and drop inlets, indicating size, type and grade of all proposed improvements. Typical sections and linings for all channels shall be included. Invert elevations and other design details for all drainage improvements shall be shown to the nearest 0.01' accuracy. Energy grade lines shall be shown on profiles.

Stormwater management improvements for water quantity shall adhere to the following design principle: The post-development stormwater runoff rate of flow and characteristics shall replicate, as nearly as practicable the existing pre-development runoff characteristics and site hydrology of the development site. The basic design criteria for stormwater management facilities employs the ten-year frequency, two-hour duration storm to determine pre- and post-development flows. Required storage shall be computed using unit hydrograph methods, employing commonly accepted hydraulic and hydrologic software.

A storm drainage and stormwater management engineering report shall be submitted to include:



- (a) A drainage delineation map, prepared at the same scale as the site plan, shall include drainage divides and areas of contributing pre-development runoff patterns and planned post-development runoff to proposed improvements.
  - (b) hydrologic calculations and hydraulic modeling of the contributing drainage basin.
  - (c) energy grade line calculations for all enclosed pipe systems.
  - (d) storm runoff for pre-development and post-development characteristics, based the Modified Rational Formula, TR-55 methodology or other appropriate modeling techniques as approved by the City Engineer.
  - (e) analysis and verification of receiving channel capacity and adequacy to accommodate runoff generated by proposed project.
  - (f) stormwater management pond or retention/detention/BMP structure routing calculations and hydraulic performance analysis of the proposed facility. Elevations for the calculated 2-, 10-, and 100-year pre- and post-development water surface elevations shall be shown.
  - (g) storm culvert, pipe, and inlet (street and yard) design loading and sizing calculations.
- (10) Location, width and purpose of all existing and proposed utility right-of-ways and easements.
- (11) Location and boundaries of existing water courses, the existing 100-year flood plain and floodways employing either FIRM mapping or engineering floodplain studies and mapping using HEC I and II procedures where FIRM information does not exist. In areas where development may encroach upon floodplains or floodways, the Zoning Administrator may require both a pre-development and post-development floodplain study.
- (12) Plan for accommodation of significant geologic characteristics, such as sinkholes and significant rock outcrops.
- (13) Erosion and sediment control plan, specifications, design standards, and narrative report. Plans for erosion control and drainage facilities shall be designed and displayed independently for each construction phase.
- (14) Site plan location and design criteria for the following:
- (a) recreation areas (including playgrounds, courts, fields, pedestrian walkways, bike paths, etc.)
  - (b) open space, including required land area calculations.
  - (c) site amenities.
  - (d) retaining walls (to include structural calculations).
  - (e) site and building signage, including street and advertising signs.
  - (f) site lighting (exterior and building mounted), including height, illumination intensity, foot-candle distributions, and fixture type and shielding, as required). A lumen plan for site lighting addressing City site lighting standards may be required.
  - (g) provisions and location for private or public trash pick-up.

(h) refuse collection and dumpster locations, including access and screening.

(i) locations and design for traffic control devices and signalization.

(15) Landscape and screening plan.

(16) Geotechnical report for proposed buildings, structures, streets, pavements, foundations, and other infrastructure, subject to requirements of the Zoning Administrator.

(17) A phasing plan, if the development is to be constructed in more than one phase. The phasing plan shall clearly indicate by phase lines, notes or other methods which facilities are to be constructed under each phase. Plans shall indicate locations of contour tie-ins for each phase and specific measures for phased termination of all water, sewer, storm drainage, streets and other public improvements.

(18) Articles of incorporation, covenants and property maintenance documents related to the ownership, management, and maintenance functions for any development which includes the creation of common ownership agreements.

(19) Statement of facility and land use operations and activities, including hours of operation, number of employees, and number of work shifts.

(20) Site plan check list, certified by preparer of plan.

d. Provisional Information on site plans:

The Zoning Administrator may require one or more of the following as well as any other materials as may be deemed necessary to facilitate the City's site plan review:

(1) Statement of estimated construction time.

(2) Subdivision or easement plats, if applicable.

(3) Site design drawings, showing building configuration, topography and relationship to site improvements, color and building materials.

(4) Architectural drawings showing plan and elevations of new planned construction or renovations (including drawings of the original building).

(5) Traffic impact assessment.

(6) The approval of the Architectural Review Board.

## **I. Bonding and Construction Permits**

### **1. Prerequisites for Commencement of Site Improvement Activities:**

No site improvement activities may occur unless the following requirements are met:

a. Completion of Pre-Application Conference.

b. Approval of site plan, public improvements plan, and subdivision plat, as may be required.

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- c. Approval of stormwater management and erosion and sediment control plan, if required.
- d. Approval of stormwater management and erosion and sediment control bond, if applicable.
- e. Installation of first phase of approved erosion and sediment control measures in accord with the plan.
- f. Approval of a performance bond or other surety to ensure the completion of public infrastructure facilities within a specified timeframe.
- g. Issuance of a land disturbance permit (for projects with greater than 5,000 square feet of disturbed land area.)
- h. Approval of availability and adequate capacity of all necessary utilities or, in the absence therefore, approval of plan and bonding for applicant to provide adequate public facilities.

2. Improvements Costs:

All improvements required by this ordinance shall be installed at the cost of the applicant, except where cost sharing or reimbursement agreements between the City of Martinsville and the applicant are appropriate, the same to be recognized by formal written agreement prior to site development plan approval.

3. Acceptance of Site Improvements:

The approval of a site development plan or the installation of the improvements, as required by this ordinance or the subdivision ordinance, shall not obligate the City to accept the improvements for maintenance, repair or operation. Acceptance shall be subject to City regulations, standards and criteria, where applicable, concerning the acceptance of each type of improvement.

4. Bonding of Improvements:

a. Performance (surety) bond required for improvements:

(1) A bond shall be required by the City Engineer prior to commencement of construction to guarantee the successful completion, function, and operation of certain improvements which are to be accepted for dedication, maintenance and/or operation by the City and as otherwise required by this ordinance and the subdivision ordinance (where applicable).

(2) The owner or his designated agent shall submit a bond or other surety acceptable to the City Engineer to ensure that measures could be taken by the City at the owner's expense should owner fail to complete the public utilities, infrastructure, facilities and erosion control measures required for the project within the specified time frame.

This bond or surety must be submitted prior to any issuance of a land disturbance permit, and it must be in place in order for the Zoning Administrator to consider the site plan for approval.

(3) The period of the initial bond (surety) agreement shall be not less than twelve (12) months from its effective date. The bond shall be of a form which automatically renews itself unless and until the issuing guarantor shall give ninety (90) calendar days prior written notice to the City of its intent to terminate the bond.

- (4) Appropriate personnel and agencies of the City may make inspections of the improvements subject to bonding at any time during the progress of the work. The owner or developer shall be required to notify the City of progress on a periodic basis in accord with the City's published inspection timeframes and procedures.
  - (5) A decision by the City to draw upon the bond to ensure compliance with bonding requirements may be made at any point during the life of the bond at the sole discretion of the City.
- b. Bond cost estimate required by applicant:
- (1) The developer or his agent shall submit a detailed, itemized cost estimate of (a) public utilities, infrastructure and/or facilities, (b) erosion control and public facilities, and (c) other bondable improvements related to the public health, safety and general welfare as determined and required by the City Engineer for the proposed project.
  - (2) A cost estimate for improvements to be covered by bonding shall be submitted for approval prior to site plan approval, with said estimate based upon standard unit prices within the region and shall be prepared by a registered professional engineer or licensed general contractor qualified to perform the work subject to the bond.
  - (3) The City Attorney with recommendation from the City Engineer shall employ the original bond cost estimate in setting the bondable amount for any project.
- c. Notification of expiration and extension of bond:
- (1) If prior to sixty (60) calendar days from the expiration date of the bond the applicant has not taken steps to gain approval of improvements, release of the bond, and/or extension of the bond, the applicant and surety will be notified by the City by mail within forty-five (45) calendar days prior to the expiration date that a bond extension or new bond will be required.
  - (2) If an extension or new bond is not received by the City Engineer within twenty-five (25) calendar days of the original bond's expiration date, action will be taken to draw upon the original to allow the City to complete the installation of public improvements, other site improvements and erosion control and public works facilities. At that time, all construction permits will be revoked and continued work at the project will place the developer, the contractor, and/or other associated parties in violation of this ordinance.
- d. Forms of bond and surety guarantees:
- Forms of surety guarantees, all of which shall be subject to the approval of the City, shall be limited to the following:
- (1) Corporate surety bond from an insurance corporation licensed in Virginia
  - (2) Cash escrows and set-asides from an insured lending institution
  - (3) Irrevocable letters of credit from an insured lending institution
  - (4) Cashier's check
  - (5) Other surety as approved by the City Attorney

- (6) The bond may be released by the City in full or in part only upon the satisfactory completion of applicable improvements and the permanent stabilization of the site against erosion and sedimentation

e. Maintenance (defect) bonds:

- (1) Prior to the release of the performance bond and the acceptance of public facilities by the City, the owner shall submit a maintenance (defect) bond for any improvement to be accepted for dedication, maintenance, and/or operation by the City.
- (2) The maintenance (defect) shall be in an amount and form satisfactory to the City Attorney but in no instance shall be less than ten (10) percent of the total construction cost of the improvements subject to the bond.
- (3) The maintenance bond may be released at the end of two (2) years from the date of City acceptance of responsibility. Such bond shall be released in full if no defects have been found to exist, or if defects are found to exist, they have been corrected by the owner or development to the satisfaction of the City. If defects found to exist have been corrected by action of the City, the costs of such action shall be deducted from the amount of the maintenance bond.

f. As-built construction drawings:

As-built construction drawings for all improvements subject to bonding shall be provided to the City prior to the release of any bond amounts. The as-built drawings shall fully document the accuracy of improvements and update all information shown on the original site plan.

5. Foundation Survey:

No work on a new building or addition that is required to have a site plan and is located within five (5) feet of any required setback shall be approved to proceed above the foundation or slab until the building inspections office has received a survey prepared by a certified land surveyor licensed to practice in Virginia, showing that the foundation or slab, as constructed, is located in accordance with the approved site plan and other applicable ordinances. This requirement is supplemental to, and does not negate the requirement for, submission of application for building permits prior to commencing any construction activity.

6. Phase 1 & 2 Environmental Assessments and Remediation:

The Zoning Administrator may require a Phase I environmental site assessment based on the anticipated use of the property proposed for the site plan that meets generally accepted national standards for such assessments, such as those developed by the American Society for Testing and Materials, and Phase II environmental site assessments, that also meet accepted national standards, such as, but not limited to, those developed by the American Society for Testing and Materials, if the City Engineer or Zoning Administrator deem such to be reasonably necessary, based on findings in the Phase I assessment, and in accordance with regulations of the United States Environmental Protection Agency and the American Society for Testing and Materials.

A reasonable fee may be charged for the review of such environmental assessments. Such fees shall not exceed an amount commensurate with the services rendered, taking into consideration the time, skill, and administrative expense involved in such review.

The City may require the owner or developer to make full disclosure and establish provisions for remediation of contamination and other adverse environmental conditions of the property prior to approval of the site plan.

## J. Requests for Waivers, Variations and Substitutions

1. An applicant or owner may request a waiver, variation or substitution pursuant to:
  - (a) the requirements for physical improvements,
  - b) the requirements for site development processes and activities,
  - (c) the requirements for specific designs, plans and documentation to be submitted with the site plan application, and
  - (d) other requirements related to the application of this section.

The specific provisions for the waiver of the requirement for preparation and submission of a site plan are addressed in this section. A written request for a waiver, variation or substitution shall state the rationale and justification for such request together with such alternatives as may be proposed by the applicant or owner.

2. Such request shall be submitted in writing to the Zoning Administrator with the filing of a site plan or public improvements plan accompanied by a statement from the applicant as to the public purpose served by such waiver, variation, or substitution as related to the purpose and intent of this section.
3. The Zoning Administrator may accept the request for waiver, variation or substitution for any requirement in a particular case upon a finding that the waiver, variation or subdivision of such requirement would advance the purposes of this ordinance and otherwise serve the public interest in a manner equal to or exceeding the desired effects of the requirements of the ordinance. Alternately, the Zoning Administrator may recommend a conditional modification to the request, or the Zoning Administrator may deny the request. The applicant may appeal the decision of the Zoning Administrator to the Planning Commission.
4. No such waiver, variation, or substitution shall be detrimental to the public health, safety or welfare, orderly development of the area, sound engineering practice, or to properties located within the project impact area.
5. The Zoning Administrator, in deliberation on the request, may require the submission of a professional engineering report or other related technical documentation and plan exhibits to support the applicant's request for waiver, variation, or substitution.
6. The Zoning Administrator, at his or her sole discretion, may waive any individual requirement for graphic or written information to be contained on a Single Family Residential Lot Plan.

## K. Revisions to Approved Site Plans

1. Any revision or deviation from approved plans and specifications must be submitted in writing with related site plan documentation to the Zoning Administrator.
2. The Zoning Administrator shall determine which staff and agencies are required to review the requested modifications and will oversee the implementation of this process.
3. The Zoning Administrator may grant approval of site plan revisions, provided that where the Zoning Administrator is of the opinion that a proposed revision is of such a magnitude and impact that a decision on the revision should be reached only after a public hearing thereon, then a meeting

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before the Planning Commission to act on such revision shall be scheduled in a fashion similar to an original site plan submission.

#### L. Single Family Residential Lot Plans for Existing Lots of Record

The intent of the single family residential lot plan is to ensure that proposed single family uses and certain related lot development activities are compatible with approved subdivision plats and public improvements plans as well as to ensure consistency with the zoning regulations. A residential lot plan may be required to accompany a zoning permit or building permit for existing lots of record as well as other subdivided and un-subdivided parcels. Refer to the Subdivision Ordinance, Section 9, Single Family Residential Lot Plans for the requirements and process for application and approval.

#### M. Acceptance of Public Facilities

Within thirty (30) business days following satisfactory completion, inspection and approval of the installation of all required improvements, and upon the satisfactory compliance with the provisions of this ordinance and the City's adopted design and construction standards, a "Certificate of Substantial Completion". The City will accept ownership of maintenance responsibilities for such facilities on the effective date of said letter.

#### N. Appeals

1. The decision of the Zoning Administrator or by any other administrative officer of the City shall constitute a decision within the purview of Section 15.2-2311 of the Code of Virginia and this Article. The decision may be appealed to the City's Board of Zoning Appeals (BZA) as provided by that section of the Code. Decisions of the Board of Zoning Appeals may be appealed to the Martinsville Circuit Court.
2. Appeals to the BZ shall be filed within thirty (30) days for the date of the decision appealed with the Director of Development and the BZA.
3. In the filing of an appeal, the applicant shall provide all copies of all documentation as submitted with the final site plan application and other additional materials as may be requested by the BZA. In addition, the applicant shall submit the BZA review fee as established by the Zoning Administrator for the appeals process.
4. Review and decisions of the BZA shall be rendered in accord with the terms of its responsibilities as presented in Chapter 25 (Board of Zoning Appeals) of the Zoning Ordinance.
5. Appeals of a decision of the Planning Commission in conjunction with this section by the applicant or a party in interest regarding a decision related to a site plan, waiver, variation or substitution shall be to the City Council, provided that such appeal is filed with the Zoning Administrator within ten (10) business days of the decision being appealed. The appeal shall be placed on the agenda of the City

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Council at the next regular meeting. The City Council may reverse or affirm, wholly or partly, or may modify the decision of the Planning Commission.

6. Any subsequent appeal of a decision by the City Council shall constitute a decision within the purview of the Code of Virginia, and the decision may be appealed to the City Board of Zoning Appeals in accord with Chapter 25 of the Zoning Ordinance. Decision of the Board of Zoning Appeals may be appealed to the Martinsville Circuit Court.

## O. Violations and Penalties

1. Any person, whether owner, lessee, principal, agent, employee or otherwise, who violates any of the provisions of this ordinance, or permits any such violation, or fails to comply with any of the requirements hereof, or who erects any building or uses any building or uses any land in violation of any detailed or proffered statement or plan submitted by him and approved under the provisions of this ordinance shall be guilty of a Class I misdemeanor and, upon conviction thereof, shall be subject to punishment as provided by law. Each day that a violation continues shall be deemed a separate offense.
2. Any building erected or improvements constructed contrary to any of the provisions of this ordinance or to the approved plans, and any use of any building or land which is conducted, operated or maintained contrary to any of the provisions of this Ordinance shall be, and the same is hereby declared to be, unlawful.
3. The City may initiate injunction, mandamus, or any other action to prevent, enjoin, abate or remove such erection or use in violation of any provision of this Ordinance.
4. Upon becoming aware of any violation of a provision of this ordinance, the Zoning Administrator or City Attorney may serve notice of such violation on the person committing or permitting the same. If such violation has not ceased within a reasonable time as specified in the notice, action as may be necessary to terminate the violation shall be initiated.
5. The remedies provided for in this section are cumulative and not exclusive and shall be in addition to any other remedies provided by law.

## P. Hardships

1. As provided by Section 15.2-2286 of the Code of Virginia, in consideration of hardships which may arise from the strict application of this ordinance, the Zoning Administrator may consider an applicant's request for and grant a modification from any provision contained in the zoning ordinance with respect to physical requirements on a lot or parcel of land, including but not limited to size, height, location or features of or related to any building, structure, or improvements.
2. The modification may be granted upon a determination by the Zoning Administrator that: (1) the strict application of the ordinance would produce undue hardship; (2) such hardship is not shared generally by other properties in the same zoning district and the same vicinity; (3) the authorization of the modification will not be of substantial detriment to adjacent property; and (4) the character of the zoning district will not be changed by the granting of the modification.

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3. Prior to the granting of a hardship modification, the Zoning Administrator shall give, or require the applicant to give, all adjoining property owners written notice of the request for modification, and an opportunity to respond to the request within 21 calendar days of the date of the notice.
4. Prior to granting a hardship modification, the Zoning Administrator may distribute the hardship request for input from qualified reviews among City staff and other necessary agencies.
5. Prior to the granting of a hardship modification, the Zoning Administrator may schedule the request to be reviewed by the Planning Commission.
6. The Zoning Administrator shall respond within ninety (90) calendar days of a request for a decision or determination on such zoning matters related to hardship and further within the scope of the authority of the unless the applicant has agreed to a longer period.
7. The Zoning Administrator shall make a decision on the application for hardship modification and shall issue a written decision with a copy provided to the applicant and any adjoining landowner who responded in writing to the notice sent pursuant to this paragraph.



## Nonconformity

### A. Purpose and Intent

This section governs nonconforming uses, nonconforming structures and nonconforming lots. These features are called nonconforming because they came into existence legally, at one time, but do not comply with one or more requirements of this Zoning Ordinance as it now exists.

It is the general policy of the City to allow uses, structures, and lots that came into existence in accordance with then-applicable rules to continue to exist and be put to productive use, but to also bring as many aspects of these situations into compliance with existing regulations as is reasonably possible.

The regulations of this Section are intended to:

1. Recognize the interests of property owners in continuing to use their property.
2. Promote reuse and rehabilitation of existing buildings.
3. Place reasonable limits on the expansion and alteration of nonconformities that have the potential to adversely affect surrounding properties or the community as a whole.

### B. Authority and Status

#### 1. Conditions for continuation:

Any nonconforming use, structure or lot which lawfully existed as of the effective date of this ordinance and which remains nonconforming, and any use, structure or lot which has become nonconforming as a result of the adoption of this ordinance or any subsequent reclassification of zoning districts or other amendment to this ordinance, may be continued or maintained only in accordance with the terms of this Ordinance.

#### 2. Variances and special use permits:

The limitations of this Section shall not apply to structures or lots whose nonconforming features have been granted by way of a variance, special use permit, or other modification or condition lawfully approved by the Zoning Administrator, the Planning Commission, the Board of Zoning Appeals, or the City Council.

#### 3. Change in title or possession:

If any change in title or possession of a lot or building, or renewal of a lease of a nonconforming building or use occurs, the existing nonconforming use or building may continue so long as all other applicable provisions of this Section are met.

#### 4. Burden of Proof:

The burden of establishing that any nonconformity is a legal nonconformity shall in all cases be upon the owner of such nonconformity. The burden of proof for establishing the existence of a lawfully nonconforming lot, use or structure shall not be upon the City of Martinsville or the Zoning Administrator.

### C. Repairs and Maintenance

1. Normal repairs and routine maintenance of nonconforming uses or structures shall be permitted unless such repairs increase the extent of nonconformity or are otherwise expressly prohibited by this Zoning Ordinance.
2. Nothing in this Section shall be construed to prevent structures from being structurally strengthened or restored to a safe condition, in accordance with an official order of a public official.

### D. Nonconforming Lots

#### 1. Usage of nonconforming lots:

If a lot was approved on a subdivision plat and duly recorded prior to the effective date of this ordinance and if such lot met the requirements of the subdivision ordinance in effect at the time of recordation, then such lot may be used for any use permitted under the current zoning district designation even though the lot does not meet the lot area or lot width and depth requirements of the district, and provided that all other regulations (including setbacks, yard requirements, density, screening, etc.) of this ordinance can be satisfied.

#### 2. Prohibition on establishment of nonconforming lot:

A lot may only be established after the effective date of this ordinance if such lot conforms with all requirements of this ordinance.

#### 3. Boundary line adjustments:

Notwithstanding the provisions hereinabove, boundary line adjustments may be permitted between nonconforming lots or between nonconforming lot(s) and a conforming lot(s), provided the Zoning Administrator finds that the degree of nonconformity is not increased due to such adjustment.

#### 4. Right-of-way dedication, eminent domain and condemnation:

Any lot which, by reason of realignment of a City, State or Federal highway, street or other public improvement which is implemented by reason of public land acquisition or condemnation proceedings related thereto, has been reduced in size to an area less than that required by law, shall be considered a nonconforming lot of record subject to the provisions set forth herein; and any lawful use or structure existing at the time of such public acquisition or condemnation proceedings which would thereafter no longer be permitted under the terms of this ordinance shall be considered a nonconforming use or structure except as where the average front setback establishes a new setback line.

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5. Nonconforming Lots with Frontage in Single Ownership:

If two or more lots with continuous frontage in single ownership which do not meet the requirements for lot width, area, or setbacks as established by this ordinance, the parcels involved shall be legally consolidated before any zoning amendment, site plan, residential lot development plan, or other zoning action may be approved. No portion of such parcel shall be used which does not meet lot width and area requirements established by this ordinance. Neither shall any division of such parcels be made which leaves remaining any lot with a width or area below the requirements stated in this ordinance.

6. Single Lot of Record:

Except as provided in (5.) above, when a lot has an area or width which does not conform to the dimensional requirements of the district in which it is located, but such lot was of record at the time of adoption of this ordinance or any subsequent amendment to this ordinance which renders such lot nonconforming, then such lot may be used for any use permitted in the district where located, provided the yard dimensions and other requirements of Sections IX through XXI not involving area or width, are complied with and provided further that in the case of dwellings, only single-family or duplex dwelling shall be permitted.

## E. Nonconforming Uses of Land

Where, at the effective date of this ordinance, or amendment thereto, permitted use of land, exclusive of a structure or structures, exists that is made no longer permissible by this ordinance, or amendment, such use may be continued, otherwise lawful, subject to the following provisions:

1. No such nonconforming use shall be enlarged or increased, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance.
2. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this ordinance.
3. If any such nonconforming use of land ceases for any reason for a period of more than two (2) years, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.
4. Any use of land made nonconforming by an amendment to this ordinance requiring screening as defined herein may continue for a period of time not to exceed two (2) years, after which the use shall conform to any screening requirements.

## F. Nonconforming Structures

When a permitted structure exists prior to the effective date of this ordinance, or amendment thereto, which structure could not be built under the terms of this ordinance, or amendment, by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure may be continued, if otherwise lawful, subject to the following provisions of this ordinance:

1. The structure may not be enlarged or altered in a way that increases its nonconformity.
2. Any building devoted in whole or part to a nonconforming use which is destroyed by any cause to an

## V. Nonconformity

extent of more than fifty (50) percent of its fair market value or more than fifty (50) percent of its bulk shall not be repaired or rebuilt unless the use therein is changed to a conforming use. If a building is damaged by less than fifty (50) percent of the fair market value or bulk, it may be repaired or reconstructed and used as before the time of damage, provided that such repairs or reconstruction be completed within twelve (12) months from the date of such damage. It shall be the duty of the property owner to provide an independent appraisal conducted by a real estate appraiser licensed by the State of Virginia to establish fair market value.

3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
4. The City Council may make a special exception for the repair or reconstruction of nonconforming structures for damage or disrepair caused by "Acts of God". If in the view of Council such damage or disrepair has occurred by an "Act of God", then the nonconforming structure may be allowed to be repaired or rebuilt within the previously existing footprint and without exceeding the previously existing square footage under roof.

## G. Nonconforming Uses of Structures

If a permitted use of a structure, or of structure and premises in combination, exists prior to the effective date of this ordinance, or amendment thereto, that would not be allowed in the district under the terms of this ordinance, or amendment, the existing use may be continued, if otherwise lawful, subject to the following provisions of this ordinance:

1. An existing structure devoted to a use not permitted by this ordinance shall not be enlarged, extended, reconstructed, moved, or structurally altered except to change the use of the structure to a permitted use.
2. Any nonconforming use may be extended throughout any parts of a building, which were manifestly arranged or designed for such use at the effective date or amendment of this ordinance, but such use shall not be extended to occupy any land outside such building.
3. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.
4. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for two (2) continuous years, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.
5. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land, and the use of the land or any structure thereafter erected thereon shall then be in conformance with the provisions of this ordinance.

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## H. Nonconforming Off-Street Parking and Loading

1. Where any use of land, structure or use of structure existing prior to the effective date of this ordinance, or subsequent amendment, is nonconforming as to the requirements for off-street parking as elsewhere provided in this ordinance, or where any lot existing prior to the effective date of this ordinance or amendment thereto is nonconforming as to the requirements for off-street loading as provided in Section XXIII, the following shall apply.
2. Such nonconformance shall be permitted to continue and shall not be basis for terminating said use of land, structure or use of structure, or said lot as nonconforming within the intent of this section.
3. Where off-street parking or off-street loading spaces exist prior to the effective date of this ordinance, or amendment thereto, and such parking or spaces are equal to or less than the requirements of this ordinance they shall not be further reduced in number or size.

## I. Nonconforming Signs

1. In any zoning district, where any sign does not comply with the provision of this ordinance, such sign and any supporting structures may be maintained in their existing condition, provided that such signs and structures shall not be replaced, reconstructed, moved, or structurally altered except in compliance with the provisions of this ordinance.
2. Any nonconforming sign which is replaced, reconstructed, moved, or structurally altered shall cause the sign to lose its status as a lawful nonconforming sign.
3. No sign which has been damaged by any cause to the extent of more than fifty (50) percent of the fair market value of the sign, as valued immediately before damage, shall be restored, repaired or replaced and used in conformity with this ordinance unless such restoration, repair or replacement and use is approved as a special exception by the Board of Zoning Appeals. If a sign is damaged by less than fifty (50) percent of the fair market value, it may be repaired or reconstructed and used as before the time of damage, provided that such repairs or reconstruction be completed within sixty (60) calendar days of the date of such damage.
4. Supporting structures for nonconforming signs may continue in use for a conforming sign if said supporting structures comply in all respects to the applicable requirements of this ordinance and other ordinances of the City.
5. No permits for additional signs shall be issued for any premises on which there are any nonconforming signs or nonconforming supporting structures.

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## J. Relationship to Site Plan Requirements

A change or addition to any non-conforming use, structure, or site that is subject to a site plan shall require that the entire use, structure, or site (including both the non-conforming and conforming improvements) be brought into full conformance with all of the requirements of this ordinance, provided that the Planning Commission, upon recommendation by the Zoning Administrator, may waive a portion or all of the individual requirements for conformance.



## *VI.* Sign Regulations

### A. Purpose and Intent

The purpose and intent of this Section is to establish reasonable regulations as to the size, height, area, bulk, location, erection, construction, reconstruction, alteration, repair, maintenance, razing or removal of signs and the structures to which they are affixed, which are visible from the public right-of-way. A sign placed on land or on a building for the purpose of identification, protection or advertising a use conducted therein shall be deemed to be an integral part of the land or building. These regulations are included in this ordinance in order to achieve all of the following community goals and objectives:

1. Protect the health, safety and welfare of the public.
2. Safeguard the public use and nature of the streets and sidewalks by reducing hazards that may be caused by signs overhanging or projecting over public rights-of-way.
3. Enhance the physical appearance of the City and preserve the scenic and natural beauty of certain areas by the requirement of high professional standards in sign design and display.
4. Reduce sign or advertising distraction and obstructions that may impede fire-fighting efforts or impair a driver's ability to see pedestrians, obstacles or other vehicles or to read traffic signs.
5. Promote the economic growth of the City by creating a community image that is conducive to attracting new business and industrial development.
6. Promote the safety of persons and property by requiring that signs not create a hazard due to collapse, fire, decay or abandonment.
7. Promote reasonable legibility and effectiveness of signs and prevent their over-concentration, improper placement and excessive height, bulk, density and area.

### B. Sign Permits

Except as provided in this Section, no sign shall be erected, installed, used, altered, painted, relocated, replaced or reconstructed until a Sign Permit has been issued by the Zoning Administrator. For the purpose of this Ordinance, all signs are considered accessory uses and, unless specifically qualified, shall be located on the same lot with the principal use to which they pertain.

Sign Permits shall be issued according to the following procedure:

1. A Sign Permit shall be required for all signs except for those specifically excluded from the permit requirements of this Section.
2. Applications for Sign Permits shall be filed on a form provided by the Zoning Administrator, shall contain information required herein, and shall be accompanied by a fee to be established by the City Council.

3. All applications for Sign Permits shall be submitted with written or graphic exhibits to incorporate the following information:
  - a. Name, address, and telephone number of the sign erector, sign owner, and property owner.
  - b. Position of the sign in relation to adjacent lot lines, buildings, sidewalks, streets and intersections to be shown on a legal plat produced by a licensed surveyor or engineer as required by the Zoning Administrator.
  - c. Type of sign and general description of structural design and construction materials to be used.
  - d. Purpose of the proposed sign.
  - e. Drawings of the proposed sign which shall contain specifications indicating the height, perimeter and area dimensions, means of support, method of illumination, colors, and any other significant aspect of the proposed sign.
  - f. Tax map number, zoning and address of property on which the sign is to be located.
  - g. Information pertaining to the number, shape size, type and conforming of existing signs on the subject property.
  - h. Any other information requested by the Zoning Administrator in order to carry out the purpose and intent of these regulations.
4. Any property owner or tenant of a parcel of land upon which a sign is to be displayed, or any sign manufacturer or installer authorized by such owner or tenant may apply for a sign permit.
5. After all applicable fees have been paid and a sign permit approved, the applicant may install and display approved signage. Once installed, the Zoning Administrator may inspect the sign(s) for conformance with the approved sign permit and this section.
6. Any sign permit issued shall be null and void if any sign for which the permit was issued is not installed in accordance with the permit within 6 months of the date the permit was approved.

## C. Exemptions

The following signs shall not require a sign permit:

1. Signs erected by the governments of the City of Martinsville or State of Virginia, such as traffic, warning, directional, street, or regulatory signs which are directly related to the health, safety, convenience or welfare of the community.
2. Commemorative plaques and historical markers erected by a recognized historical agency or authorized by a government body.
3. Flags of the Commonwealth of Virginia or United States of America.
4. Small signs displaying a building's address.
5. Seasonal displays and decorations which do not advertise a product or service.
6. Temporary signs for official notices.

7. One "Private Property", "No Trespassing", "Beware of Dog", or similar sign, not exceeding one and one-half square feet in area, but only where such warning is justifiable.
8. Normal maintenance and repair of a conforming sign.
9. Change of advertised copy on a sign or marquee designed and approved for replaceable copy.
10. Traffic control signs as deemed necessary and approved by the City of Martinsville or the Virginia Department of Transportation.
11. One temporary real estate sign advertising property for sale, rent, lease, build-to-suit, or sign announcing future construction. Such sign shall:
  - a. Not exceed six square feet in area in any Residential district or 32 square feet in area in any other district.
  - b. Shall be removed within one week of occupancy of the property.
  - c. Not exceed six feet in height.
12. Political campaign signs on private property. Campaign signs shall not be placed on utility poles, traffic control signs or trees or within public rights-of-way. Campaign signs shall be removed no later than thirty (30) days after the election.
13. Signs displayed for the direction or convenience of the public, including signs which identify restrooms, location of public telephones, handicapped parking spaces, public entrances, freight entrances or similar, provided such signs do not exceed a total surface area of three square feet per sign on any lot or parcel.
14. Signs displayed on a truck, bus, or other vehicle while in use in the normal conduct of business. This Section shall not be interpreted to permit the parking of, for display purposes, a vehicle to which a sign is attached or the use of such a vehicle solely as a sign.
15. One two-sided sandwich board or A-frame sign, not to exceed 9 square feet per side, advertising a permitted commercial use, and which is displayed only during business hours. Sandwich boards shall be located in such a way that they do not pose a hazard to pedestrian or vehicular traffic.
16. Wall or ground signs in a private parking lot to identify entrances, exits and divisions of the lot into sections and to control vehicular and pedestrian traffic in the lot, provided each sign does not exceed four (4) square feet in area.
17. Window "stickers", "statics" or "clings".
18. Murals or other works of art, when not used for commercial or advertising purposes.
19. Restorations of existing advertising deemed historic by the Zoning Administrator or ARB.
20. Signs erected by a department of the governmental body, such as, but not limited to, event advertising or directional signs which are directly related to community events being hosted in the City.
21. Open/Closed signs, or similar, not exceeding four square feet provided that the sign is located inside the structure.

## D. Prohibited Signs

All signs or sign structures which are not specifically exempted or permitted as defined in this Section are prohibited. Signs prohibited include, but are not limited to, the following:

1. Any sign which violates any provision of law or code of the Commonwealth of Virginia or of the United States.
2. Any sign which obstructs a door, fire escape or building opening intended for light, air or access to a building.
3. Any sign displaying video, flashing or intermittent lights, or lights changing degrees of intensity. A variable message sign may be allowed when message changes alternate on not less than eight-second cycles and when in the judgment of the Zoning Administrator the alternating message sign, including the colors used thereon, does not constitute a public safety or traffic hazard. Variable message signs shall not be permitted in any historic district.
4. Any permanent lighting either by exposed tubing or strings of lights, outlining any part of a building or affixed to any ornamental feature thereof.
5. Any sign that obscures a sign displayed by public authority for the purpose of giving traffic instructions or direction or other public information.
6. Any sign that uses the words "stop", "danger", "slow", "caution", "yield", "go", or that uses colors that could be distracting or similar to those of emergency vehicles or signs, or that otherwise presents or implies the need or requirement of stopping or caution or the existence of danger, or which is likely to be confused with any sign displayed by public authority.
7. Signs that are structurally unsafe.
8. Portable signs unless specifically permitted in this Section.
9. Sound-producing signs.
10. Any sign containing obscene text or pictures as defined by the Code of Virginia, or any sign representing or depicting sexual activities or sexually oriented goods.
11. Any sign or illumination that causes any direct glare into or upon any building other than the building to which the sign is located.
12. Any sign, except official notices, which is nailed, tacked, posted or in any other manner attached to any pipe or utility pole, whether on public or private property of any description, or to any tree.
13. Any sign attached to a chimney, tower, tank or structure of like kind which extends above the zoning district height limits.
14. Any permanent or temporary sign that is located in full, or in part, within a public right-of-way, except within the C-UB district where a building with an allowed zero front setback may install a building-mounted sign or awning overhanging the public sidewalk in compliance with applicable sections of this ordinance.

### E. Sign Area Measurements

1. Permitted signs in all districts may be double-faced and any maximum area measurements shall be taken on only one face; however, informational or advertising matter may be displayed on both faces. The face of larger area shall be used in computing allowable sign area.
2. The thickness or distance between faces of double-faced signs shall not exceed eighteen (18) inches. Any sign structure having distance between faces in excess of the above shall be treated so that each face, or copy area, is a separate sign and such separate signs shall be accordingly subject to the provisions of this section.

### F. Sign Regulations for All Districts

The following regulations apply to signs permitted in all districts:

1. Temporary signs shall be permitted in any district for the purpose of announcing a campaign or event of a civic, philanthropic, fraternal, religious, or educational organization. Such signs may not exceed fifty percent (50%) of the total permanent sign area that would otherwise be allowed on the site according to the Ordinance. No such sign shall be displayed in any Residential zoning district except on the immediate site of the event to which it pertains. Such sign may be maintained for a period not more than one month and shall be removed within five days after the advertised event.
2. One informational sign or bulletin board customarily incidental to places of worship, libraries, museums, social clubs or societies shall be permitted per parcel, provided such a sign or bulletin board is wall mounted, is not projecting and does not exceed 15 square feet of sign area.
3. The location of all freestanding signs, where permitted, in no instance may project beyond any property line, except within the C-UB district where a building with an allowed zero front setback installs a building-mounted sign or awning overhanging the public sidewalk.

### G. Sign Regulations for Residential Districts

In addition to other applicable regulations presented in this section, the following regulations shall apply to signs in Residential districts or to residential uses in any mixed use development:

1. One sign not to exceed two square feet for each dwelling unit shall be permitted, indicating only the name and/or address of the occupant. Home occupations in these districts shall be allowed an additional sign not to exceed two square feet advertising the home occupation.
2. Such nonresidential uses as are permitted in the district may be permitted a low-profile monument type sign. No such sign, including supports, shall extend more than five feet above existing grade level, be located closer than five feet to any property line, and have an area greater than 20 square feet.
3. No sign shall project beyond a property or right of way line.

## VI. Sign Regulations

4. All building-mounted signs shall be flush against the building and shall not project above the roofline.
5. Sign illumination shall be only by direct white lighting and shall illuminate only the face of the sign.
6. Freestanding identification signs, restricted to four square feet, may be used to identify community features, such as a community center, picnic area or pool facility.
7. One wall or ground sign giving the place name of an established neighborhood, community or subdivision development shall be permitted for each major entrance of the neighborhood. Each permitted sign shall not exceed forty (40) square feet, an overall height of six (6) feet and such signs shall be 10 feet from any lot line.

## H. Sign Regulations for Non-Residential Districts

In addition to other applicable regulations, the following regulations shall apply to all signs in the individual Transitional, Commercial, and Economic Development districts (as indicated in the charts below) and for non-residential uses in mixed use developments:

### 1. Building Mounted Signs:

- a. Shall be permitted based on the length of the building's primary frontage, measured in linear feet, with maximum sign area (in square feet, sq.ft.) as follows:

<b>Building Mounted Signs</b> (max. sq.ft. per foot of primary building frontage)						
<b>R-T</b>	<b>C-N</b>	<b>C-UB</b>	<b>C-C</b>	<b>ED-MA</b>	<b>ED-G</b>	<b>ED-I</b>
1 sq.ft.	1 sq.ft.	1 sq.ft.	2 sq.ft.	2 sq.ft.	2 sq.ft.	2 sq.ft.

- b. Under no circumstance shall the area of a building mounted sign exceed the following:

<b>Building Mounted Signs</b> (not to exceed, square feet)						
<b>R-T</b>	<b>C-N</b>	<b>C-UB</b>	<b>C-C</b>	<b>ED-MA</b>	<b>ED-G</b>	<b>ED-I</b>
100 sq.ft.	100 sq.ft.	100 sq.ft.	200 sq.ft.	200 sq.ft.	200 sq.ft.	200 sq.ft.

- c. Shall not project greater than forty two (42) inches from the building wall,

- d. Shall provide a minimum clearance above any sidewalk of 8 feet when the sign projects greater than 6 inches from the building wall,
- e. Shall provide a minimum clearance above any vehicle travel way or parking area of 15 feet when the sign projects greater than 6 inches from the building wall,
- f. Signs on awnings, canopies, marquees, or umbrellas shall be included in Building Mounted Sign area computation,
- g. Signs inside windows are not included in Building Mounted sign area computation,
- h. In addition to the signage allowed above, business directory signs may be located in the C-UB district to direct customers to offices, shops, and other uses within the C-UB district not located on Main or Church Streets. The sign may be placed on a wall of a building on Main or Church Streets, if permitted by the property owner. Such signs shall be mounted flush to the wall, providing information on the location of offices, shops or other uses. These signs shall only identify businesses by name and address. The maximum sign area shall be limited to 15 square feet.

## 2. Freestanding Signs:

- a. No freestanding signs shall be permitted on any parcel, business, building, or premises within the C-UB district, except where the structure is located greater than twenty five (25) feet from the front lot line.
- b. Any parcel, business, building, or premises within all other non-residential districts shall be permitted a maximum of one (1) freestanding sign in accordance with the regulations contained in this section.
- c. The Maximum sign area for all signs on parcels fronting public streets with rights-of-way greater than seventy (70) feet shall be as follows:

<b>Freestanding Signs</b> (maximum area for streets >70 ft.)						
<b>R-T</b>	<b>C-N</b>	<b>C-UB</b>	<b>C-C</b>	<b>ED-MA</b>	<b>ED-G</b>	<b>ED-I</b>
40 sq.ft.	40 sq.ft.	40 sq.ft.	100 sq.ft.	100 sq.ft.	100 sq.ft.	100 sq.ft.

- d. The maximum sign area for all signs on parcels fronting public streets with right-of-way less than seventy (70) feet shall be as follows:

<b>Freestanding Signs</b> (maximum area for streets <70 ft.)						
<b>R-T</b>	<b>C-N</b>	<b>C-UB</b>	<b>C-C</b>	<b>ED-MA</b>	<b>ED-G</b>	<b>ED-I</b>
30 sq.ft.	30 sq.ft.	30 sq.ft.	70 sq.ft.	70 sq.ft.	70 sq.ft.	70 sq.ft.

e. The maximum height of freestanding signs shall be as follows:

<b>Freestanding Signs</b> (maximum height, in feet.)						
<b>R-T</b>	<b>C-N</b>	<b>C-UB</b>	<b>C-C</b>	<b>ED-MA</b>	<b>ED-G</b>	<b>ED-I</b>
6 ft.	8 ft.	10 ft.	20 ft.	20 ft.	20 ft.	20 ft.

### 3. Design Standards

- Signs shall be designed with material, colors, and lettering that are compatible and harmonized with the main building on the site.
- Signs shall be located in a manner that shall not cause a pedestrian or vehicular traffic hazard.
- Signs shall convey only on-site business information and/or the name of the shopping center or business park and its management company.
- The ground area around the base of signs shall be landscaped with groundcover, shrubs and/or plants. The landscaping plan required by this section shall be depicted on or with the sign permit application.
- Signs shall be setback a distance equal to their height from any property or right-of-way line.
- Signs shall be setback a distance equal to twice their height from any existing freestanding sign.

### 4. Other Signs

- One detached order board and one preview board is permitted for each stacking lane for businesses with drive-through facilities. Order boards and preview boards shall not be included in calculating the number of freestanding signs or in calculating the total aggregate sign area. Such signs must be located so that they are not legible from off the property. Order boards are limited to thirty (30) square feet in area and six feet in height. Preview boards are limited to fifteen (15) square feet in area and six feet in height.
  - Two construction signs are permitted, not to exceed thirty two (32) square feet and a height of six (6) feet, advertising the use to be made of a commercial building or structure and the businesses and firms developing the site or structure. Such sign may be installed immediately prior to construction and shall be removed upon occupancy of the building or structure.
5. In addition to the signage allowed above, business park directory signs may be located in the R-T, ED-G, and ED-I districts. One freestanding sign shall be permitted identifying the name of the business park and its tenants. Such sign shall not exceed one hundred (100) square feet in area and twenty (20) feet in height.



6. Except as otherwise specifically provided in this section, no business sign shall be allowed except upon that portion of a building or site that is owned or leased and actually occupied by the business identified by such sign.

### **I. Historic District Signs**

In addition to other applicable regulations presented in this section, all signs to be located within the designated Historic Preservation Overlay (HP-O) District shall require a Certificate of Appropriateness approved by the Architectural Review Board, or a Certificate of No Effect approved by staff.

Notwithstanding any other provision of this section, the Architectural Review Board, in approving a sign, may further regulate such sign with respect to area, height, placement, materials, color, lighting, graphics, lettering or architectural styling, consistent with the guidelines applicable to their decisions.

### **J. Entrance Corridor Overlay District**

In addition to other applicable regulations presented in this section, all signs to be located within a designated Entrance Corridor Overlay District shall require the approval of the Planning Commission. Notwithstanding any other provision of this section, the Planning Commission, in approving a sign, may further regulate such sign with respect to area, height, placement, materials, color, lighting, graphics, lettering or architectural styling, consistent with the guidelines applicable to their decisions.

### **K. Temporary Signs**

Temporary signs may be allowed by an approved temporary sign permit, subject to the following provisions:

1. Banners with a maximum size of forty (40) square feet may advertise special promotions, hiring information, community events or new businesses.
2. Temporary sign permits shall not be issued to the same applicant or business more than four times in any calendar year; each temporary sign permit shall be separated by a period of not less than 30 days.
3. Applications for temporary signs must be submitted at least ten (10) business days prior to the installation of sign. Such application shall be on an application form prescribed by the Zoning Administrator and shall indicate the size, area, proposed location and manner of fastening of the temporary sign.

Any banner installed without prior approval of the Zoning Administrator shall be removed immediately upon notification by the Zoning Administrator and no other temporary sign shall be displayed on the property by the same business or organization for ninety (90) days.

4. A maximum of one temporary sign may be displayed at a time.
5. Each permitted temporary sign may be displayed a maximum of sixty (60) consecutive days.

## **VI. Sign Regulations**

6. Temporary signs shall be located on the same property as the sponsoring business or organization.
7. No temporary sign may be located within a median or other public street right of way.

#### **L. Abandoned Signs**

1. An abandoned sign shall be defined as any sign advertising or pertaining to a business or other use that is no longer in operation, with the exception of abandoned signs deemed historic by the Zoning Administrator or Architectural Review Board.
2. Any abandoned sign faces shall be removed or covered by the owner or lessee of the premises upon which the sign is located when the business it advertises is no longer on the premises. Such abandoned sign, if not removed within sixty (60) days from the termination of occupancy by such business shall be considered to be in violation, and the Zoning Administrator may cause the abandoned sign faces to be removed at the property owner's expense.
3. Any abandoned sign structure and accompanying framing or brackets, shall be removed by the owner or lessee of the premises upon which the sign is located when the business it advertises is no longer on the premises.

Such abandoned sign, if not removed within one hundred eighty (180) [days] from the termination of occupancy by such business shall be considered to be in violation, and the Zoning Administrator may cause the abandoned sign to be removed at the property owner's expense.

4. Any abandoned pole or ground sign support structures, poles or pole brackets, shall be removed by the owner or lessee of the premises upon which the sign is located when the business it advertises is no longer on the premises within three hundred sixty-five (365) days from the termination of occupancy by such business. This shall not apply to sign listings within multi-tenant buildings in which tenants change.
5. Once removed in accordance with this section, any new sign erected on the premises must comply with all aspects of this ordinance, and shall require a new sign permit.

#### **M. Nonconforming Signs**

1. In general, any sign erected in accordance with all applicable regulations in effect at the time of its construction shall be allowed to continue to exist, and may be maintained in its current state unless abandoned, rebuilt, or otherwise modified.
2. All nonconforming signs shall be subject to the detailed regulations found in Section VI: Nonconformity.

## *VII.* Zoning Amendments

### A. Purpose and Intent

The purpose of the zoning amendment procedures outlined in this Section is to allow for future changes to the City's zoning ordinance, both to accommodate broad changes that affect the City as a whole, and to accommodate specific proposals on individual parcels. Zoning amendments may be made to: (a) the text of the Zoning Ordinance, (b) the zoning district boundaries shown on the Official Zoning Map, or (c) the zoning district classification of one or more properties.

The rezoning procedure is intended to provide ample opportunity for Staff, Planning Commission, and City Council review of proposed zoning changes, including efforts to: (1) review the specific characteristics of individual needs or proposed uses, (2) assess the potential impacts of zoning changes on surrounding properties and City neighborhoods.

### B. Initiation of Amendments and Changes

Whenever the public necessity, convenience, general welfare or good zoning practice requires, the City Council may amend, supplement or change the zoning ordinance. Any such amendment may be initiated by:

1. City Council, on its own motion.
2. Recommendation of the Planning Commission or City staff to the City Council.
3. Petition of the owner(s), contract purchaser with the owner's written consent, or the owner's agent with the owner's written consent, of the property which is the subject of the proposed amendment.

When initiated upon the application of a property owner, the zoning map amendment process may be considered concurrently with application for a zoning text amendment, special use permit (see Section VIII), or site plan (see Section IV).

### C. Pre-Application Conference and Concept Plan

1. Requirement for Pre-Application Conference and Concept Plan:
  - a. A Pre-Application Conference shall be conducted between the applicant and the Zoning Administrator prior to formal submission and review process for a zoning amendment. The purpose of the Pre-Application Conference is to identify, understand and anticipate key planning issues, land use activities, and site-related design requirements which may be deemed relevant by the City.

- b. The Pre-Application Conference provides the opportunity for the applicant and the City to assess the specific requirements for a subsequent zoning amendment application and to determine which, if any, of the requirements of this section may be waived or changed by the Zoning Administrator.
- c. A Pre-Application Conference does not negate the requirement for the submission of a concept plan or any other required information or documentation specified in this ordinance.

2. Pre-Application Conference Objectives:

The applicant shall contact the Zoning Administrator to schedule a Pre-Application Conference. The particular objective of the conference is to review the requirements of the zoning amendment application and concept plan as well as to discuss other aspects of the applicant's proposal, considering the following:

- a. Understanding of the applicant's overall land use vision, business plan and approach to operations to ensure a successful land use activity
- b. Project location, type and mix of uses, lot configuration and setback, conceptual design, density, physical characteristics and phasing of proposed development
- c. Compatibility of the proposed zoning change with the City's comprehensive plan, the zoning ordinance, the subdivision ordinance, the stormwater management ordinance, all adopted master facilities plans, the capital improvements program, and plans for development of neighboring properties
- d. Coordination of transportation improvements with other existing and planned streets within the general area of the proposed development and otherwise in keeping with the provisions of the transportation element of the comprehensive plan and other adopted transportation plans
- e. Reasonable regulations and provisions uniquely applicable to the proposed development as related to topography, soils, geology, public utility and facilities service, drainage and flood control, transportation, traffic impacts, environmental and historic impact, economic development, and facilitation of the creation of a convenient, attractive and harmonious development
- f. Coordination of proposed development with applicable ordinances, design guidelines and development criteria
- g. Other matters related to review of a concept plan

#### **D. Requirements for Zoning Amendment Application**

1. All applications for a zoning amendment must be accompanied by all plans and other supporting information required by this ordinance.
2. All applications shall be accompanied by the appropriate fee. No application shall be processed until the fee has been paid, which fee is not refundable.
3. The fee must be paid with each application notwithstanding the fact that a prior application pertaining to the same property may have been denied. The fee shall not be charged for an application filed by the City or any of its departments.

### **VII. Zoning Amendments**

4. The Zoning Amendment Application shall be accompanied by five (5) printed copies of the concept plan, which shall include the following information:
- a. Name, address and telephone number of owner or developer.
  - b. Map scale (to be one inch equal not more than thirty (30) feet or as otherwise approved by the Zoning Administrator, with a maximum sheet size of 24" x 36", and date of plan preparation.
  - c. Name, address and telephone number of preparer of concept plan.
  - d. Vicinity map.
  - e. Current boundary survey of the lot and a north arrow; preparer of survey.
  - f. The area of the lot and gross acreage or square footage of area to be developed.
  - g. Public frontage improvements; the location of the proposed and existing right of way, proposed edge of pavement or curb line, and other public improvements along the frontage of the property.
  - h. Size, location and use of existing and proposed buildings.
  - i. Location of the proposed transportation and site improvements (including points of site access, utilities, drainage conveyance, building and site signage, buildings, streets, site lighting, driveways and parking areas) and distances from all property lines.
  - j. The dimension, height and use of the proposed building improvements.
  - k. Limits of clearing and grading.
  - l. Existing zoning district (including conditional zoning and proffer agreements) and, if a rezoning is required, the proposed zoning district (including overlay districts, where applicable).
  - m. Existing topography and a preliminary grading plan depicting finished contours, with contour intervals of five (5) feet or less.
  - n. Proposed location, alignment, easements, and sizing of proposed utility service for potable water, fire protection and sanitary sewer.
  - o. Certification in writing from the City that availability and connection to water and sewer are attainable.
  - p. Approximate location of wetlands and impacts of the proposed development thereon, with copies of state and federal permit applications and permit approval related to any proposed disturbance to the wetlands.
  - q. Approximate location of 100-year floodplain boundaries and impacts of the proposed development thereon, employing FEMA mapping where available and for areas where development may encroach upon areas which may be subject to periodic flooding, engineering calculations and mapping for 100-year floodplains which have not been mapped by FEMA.
  - r. Approximate location of planned stormwater management (SWM) facilities and best management practices (BMP), with emphasis to be placed on low impact development improvements (LID) adhering to Virginia runoff reduction methods (VRRM).
  - s. Approximate location of significant geological formations which could impact the proposed development, including significant rock outcrops.

- t. Phasing plan for the proposed development, if the project is to be developed in more than one phase.
- u. References to and location of survey datum, employing the State Plane Coordinate System (specifically indicate State Plane Zone and a NAD coordinate system) and National Mapping Standards accuracy for urban surveys.

The need for the above requirements may be reviewed at the Pre-Application conference. The Zoning Administrator may waive individual requirements to be included on the zoning amendment concept plan if the requirement is determined to be unnecessary to: (a) determine compliance with applicable provisions of this ordinance, (b) evaluate potential impacts on surrounding properties, or (c) establish adequate record of the application.

## **E. Review Procedure**

1. The applicant or authorized representative must participate in a Pre-Application conference with the Zoning Administrator before submitting an application for a zoning amendment. The applicant shall be responsible to schedule Pre-Application conference, and the meeting date shall be in accord with the published schedule of the Zoning Administrator.
2. Following the Pre-Application conference, the applicant shall submit the zoning amendment application, the concept plan, the checklist, supporting documents, and fee to the office of the Zoning Administrator.
3. The Zoning Administrator shall review the zoning amendment application, concept plan, and supporting documentation for completeness within ten (10) business days, and shall notify the contact person in writing if the application is not complete.
4. Once the application is determined complete, the Zoning Administrator shall initiate review by necessary City staff.
5. Upon satisfactory review by City staff, the Zoning Administrator shall schedule the item for the next Planning Commission agenda.
6. The Zoning Administrator, with input from the Plan Review Committee shall (a) prepare the staff report, (b) schedule the public hearing by the Planning Commission, (c) provide the required public notifications, and (d) forward the application and staff report to the Planning Commission.
7. The Planning Commission shall review the application and provide its recommendation to City Council for either approval as submitted, approval with conditions, or denial, as provided by State Code 15.2-2259.
8. Following the Planning Commission recommendation, the City staff shall (a) schedule the public hearing on the application with the City Council, (b) provide the required public notification, and (c) forward the application, staff report, and Planning Commission recommendation to the City Council.
9. The City Council reviews and decides on the application following a public hearing.
10. The City Council accepts any proffered conditions to a rezoning application, as described by Section XXIV, Proffers.

## **VII. Zoning Amendments**

## **F. Posting of Property by Applicant**

1. A “Public Notice” sign or signs indicating the zoning case number and other information required by the Zoning Administrator shall be posted in a prominent place on the property subject to the application and such sign shall be visible from a public street. The sign or signs, as provided by the Zoning Administrator, shall be erected by the applicant and shall be located within ten (10) feet of a boundary which abuts a public street.
2. The sign or signs shall be posted at least fourteen (14) business days prior to the scheduled Planning Commission public hearing and shall remain on the property until action on the application has been taken on the application by the City Council.
3. The applicant shall be responsible for ensuring that the sign is maintained during this period. It shall be unlawful for any person, except the applicant or the Zoning Administrator to remove or tamper with any sign during the period it is required to be maintained.

## **G. Reconsideration of Request**

1. No consideration of a new request for amendment or change initiated by a property owner’s petition in accord with paragraph A.3. herein above and as further provided for in this Section, including any change to the boundaries or designations on the Official Zoning Map, which is deemed substantially the same request as an earlier denied application, shall be considered within three hundred sixty-five (365) calendar days of the date of the earlier filing acted upon by the City Council.
2. The provision of paragraph H.1. herein shall not impair the right of either the Planning Commission or the City Council to propose any amendment to this Ordinance on their own motion at any time.

## **H. Withdrawal of Application**

1. Applications for a change in zoning may be withdrawn from consideration by the applicant at any time prior to any vote by the Planning Commission or City Council, provided that no new application concerning any or all of the same property shall be filed within twelve (12) months of the date of action by the Planning Commission or City Council unless the body approving the withdrawal specifies that the time limitation shall not apply and, thereby, permits the application to be withdrawn “without prejudice.”
2. The applicant shall not be entitled to any refund of fees upon withdrawal of an application.

## **I. Amendments and Variations of Conditions**

There shall be no amendment, change or variation of any condition created pursuant to the provisions of this Section until after a public hearing before City Council advertised pursuant to the provisions of the Code of Virginia.

## **VII. Zoning Amendments**

## *VIII.* Special Use Permits

### A. Purpose and Intent

The purpose of the **Special Use Permit** procedures is to provide a means by which to authorize, upon satisfactory review and subject to appropriate conditions, certain specified conditions and uses which, although generally appropriate in the zoning district in which they are specified, have a potentially greater impact on neighboring properties than those uses which are permitted By-Right.

The special use procedure is intended to provide the opportunity for the Planning Commission and City Council to:

1. Review the specific characteristics of the individual proposed uses.
2. Assess the potential impacts of the proposed uses on surrounding properties and other neighboring land uses.
3. Better understand any unique circumstances of each proposed land use.
4. To establish conditions, as may be necessary, to ensure that the use will be compatible with the surrounding area and consistent with the intent and purpose of this ordinance.

### B. Requirements for Special Use Permits

A use or structure permitted as a special use by the zoning district regulations set forth in this ordinance shall be authorized only upon review by the Planning Commission and approval of a special use permit by City Council. No building permit or certificate of occupancy for a special use or a structure devoted to a special use shall be issued unless a special use permit for such has been approved in accord with the provisions of this section.

### C. General Conditions for Special Uses

Special use permits may be issued by the City Council upon (1) official public notice and hearing as required by law for changes and amendments to this ordinance and (2) consideration of recommendations from the Zoning Administrator and Planning Commission. Such special use permits may be granted by the City Council under the following conditions:

1. The proposed land use shall be:
  - a. Consistent with the City's adopted Comprehensive Plan,
  - b. Compliant with the intent and purpose of the zoning district in which the use is proposed to be located, and



- c. Compatible with the character of adjacent properties and the surrounding neighborhood.
- 2. The proposed land use shall be adequately served by essential public services such as streets, drainage facilities, fire protection and public water and sewer facilities.
- 3. The proposed use shall not result in the destruction, loss, or damage of any feature determined to be of significant ecological, scenic, cultural, or historic importance.
- 4. The proposed use shall be designed, sited, and landscaped so that the use will not hinder or discourage the appropriate development or use of adjacent properties and surrounding neighborhoods.
- 5. The proposed use, intensity of use, and associated schedule of land use operations shall not create dust, noise, vibration, glare, traffic conditions, environmental disruption, or other externalities that would harm nearby properties, inhibit normal land use and activity functions within the by-right uses allowable in the subject zoning district, or create conditions that are not in line with the City's zoning and comprehensive plan intentions for the area.

#### **D. Special Conditions**

- 1. In granting any special use permit, the City Council may impose any conditions necessary to assure that the proposed use, its operational characteristics, and schedule of activities will conform to the requirements of this section and will continue to do so for the period in which the special use permit is granted. The City Council may take all necessary actions to ensure compliance with the conditions imposed.
- 2. The City Council may impose reasonable standards as deemed necessary to protect the public interest and welfare. Such standards may include, but need not be limited to:
  - a. More restrictive sign and business identity standards.
  - b. Additional open space, landscaping, buffer, or screening requirements.
  - c. Additional yard requirements.
  - d. Special lighting requirements.
  - e. Schedule of activities and operations, including time limitations on hours of operation.
  - f. Additional off-street parking and loading requirements.
  - g. Provision of adequate public facilities and infrastructure, including additional utility, storm drainage and public facility requirements.
  - h. Additional right-of-way improvements and public access requirements.
  - i. Additional requirements to ensure compatibility with the Comprehensive Plan and adopted Small Area Plans and Corridor Plans.
  - j. Conditions for renewal, extension, expiration, and/or revocation of special use permit
- 3. The City Council may specify time limits or expiration dates for a special use permit, including provisions for periodic review and renewal.

### **VIII. Special Use Permits**

## E. Applications Required

All applications for a special use permit must be accompanied by plans and other supporting information as required by this ordinance. All applications shall be accompanied by the appropriate fee according to the current fee schedule. No application shall be processed until the fee has been paid, which fee is not refundable. The fee must be paid with each application notwithstanding the fact that a prior application pertaining to the same property may have been denied. The fee shall not be charged for an application filed by the City of Martinsville or any of its departments.

## F. Pre-Application Conference and Concept Plan

### 1. Requirement for Pre-Application Conference and Concept Plan:

- a. A Pre-Application Conference shall be conducted between the applicant and the Zoning Administrator prior to undertaking the formal submission and review process for a special use application. The purpose of the Pre-Application Conference is to identify, understand and anticipate key planning issues, land use activities, and site-related design requirements which may be deemed relevant by the City. The topical areas to be addressed at the Pre-Application Conference are included on the special use permit checklist.
- b. The Pre-Application Conference provides the opportunity for the applicant and the City to assess the specific requirements for a subsequent special use application and to determine which, if any, of the requirements of this section may be waived or amended by the Zoning Administrator.
- c. A Pre-Application Conference does not negate the requirement for the submission of a concept plan or any other required information or documentation specified in this ordinance.

### 2. Pre-Application Conference Objectives:

The applicant shall contact the Zoning Administrator to schedule a Pre-Application Conference. The particular objective of the conference is to review the requirements of the special use permit application and concept plan as well as to discuss other aspects of the applicant's special use proposal, considering the following:

- a. Understanding of the applicant's overall land use vision, business plan and approach to operations to ensure a successful land use activity
- b. Project location, type and mix of uses, lot configuration and setback, conceptual design, density, physical characteristics and phasing of proposed development
- c. Compatibility of the proposed development with the City's comprehensive plan, the zoning ordinance, the subdivision ordinance, the stormwater management ordinance, all adopted master facilities plans, the capital improvements program, and plans for development of neighboring properties
- d. Coordination of transportation improvements with other existing and planned streets within the general area of the proposed development and otherwise in keeping with

## VIII. Special Use Permits

the provisions of the transportation element of the comprehensive plan and other adopted transportation plans

- e. Reasonable regulations and provisions uniquely applicable to the proposed development as related to topography, soils, geology, public utility and facilities service, drainage and flood control, transportation, traffic impacts, environmental and historic impact, economic development, and facilitation of the creation of a convenient, attractive and harmonious development
- f. Coordination of proposed development with applicable ordinances, design guidelines and development criteria
- g. Other matters related to review of a concept plan

## G. Concept Plan Content

The Special Use Permit application shall be accompanied by five (5) printed copies of the concept plan, which shall include the following information and other items to be addressed on the special use permit check list:

1. Name, address and telephone number of owner or developer
2. Map scale (to be one inch equal not more than thirty (30) feet or as otherwise approved by the Zoning Administrator, with a maximum sheet size of 24" x 36", and date of plan preparation
3. Name, address and telephone number of preparer of concept plan
4. Vicinity map
5. Current boundary survey of the lot and a north arrow; preparer of survey
6. The area of the lot and gross acreage or square footage of area to be developed
7. Public frontage improvements; the location of the proposed and existing right of way, proposed edge of pavement or curb line, and other public improvements along the frontage of the property
8. Size, location and use of existing and proposed buildings
9. Location of the proposed transportation and site improvements (including points of site access, utilities, drainage conveyance, building and site signage, buildings, streets, site lighting, driveways and parking areas) and distances from all property lines
10. The dimension, height and use of the proposed building improvements
11. Limits of clearing and grading
12. Existing zoning district (including conditional zoning and proffer agreements) and, if a rezoning is required, the proposed zoning district (including overlay districts, where applicable)
13. Existing topography and a preliminary grading plan depicting finished contours, with contour intervals of five (5) feet or less
14. Proposed location, alignment, easements, and sizing of proposed utility service for potable water, fire protection and sanitary sewer.
15. Certification in writing from the City that availability and connection to water and sewer are attainable

## VIII. Special Use Permits

16. Approximate location of wetlands and impacts of the proposed development thereon, with copies of state and federal permit applications and permit approval related to any proposed disturbance to the wetlands
17. Approximate location of 100-year floodplain boundaries and impacts of the proposed development thereon, employing FEMA mapping where available and for areas where development may encroach upon areas which may be subject to periodic flooding, engineering calculations and mapping for 100-year floodplains which have not been mapped by FEMA
18. Approximate location of planned stormwater management (SWM) facilities and best management practices (BMP), with emphasis to be placed on low impact development improvements (LID) adhering to Virginia runoff reduction methods (VRRM)
19. Approximate location of significant geological formations which could impact the proposed development, including significant rock outcrops
20. Phasing plan for the proposed development, if the project is to be developed in more than one phase
21. References to and location of survey datum, employing the State Plane Coordinate System (specifically indicate State Plane Zone and a NAD coordinate system) and National Mapping Standards accuracy for urban surveys

The need for the above requirements may be reviewed at the Pre-Application conference. The Zoning Administrator may waive certain individual requirements to be included on the Special Use Permit concept plan if the requirement is determined to be unnecessary to: (a) determine compliance with applicable provisions of this ordinance, (b) evaluate potential impacts on surrounding properties, or (c) establish adequate record of the application.

## H. Review Procedure

1. The applicant or authorized representative must participate in a Pre-Application conference with the Zoning Administrator before submitting an application for a special use permit. The applicant shall be responsible to schedule Pre-Application conference, and the meeting date shall be in accord with the published schedule of the Zoning Administrator.
2. Following the Pre-Application conference, the applicant shall submit the special use permit application, the concept plan, the checklist, supporting documents, and fee for the special use permit to the office of the Zoning Administrator.
3. The Zoning Administrator shall review the special use permit application, concept plan, and supporting documentation for completeness within ten (10) business days, and shall notify the contact person in writing if the application is not complete.
4. Once the application is determined complete, the Zoning Administrator shall schedule the item for review by the City's Plan Review Committee.
5. Upon satisfactory review by the Plan Review Committee, the Zoning Administrator shall schedule the item for the next Planning Commission agenda.
6. The Zoning Administrator, with input from the Plan Review Committee shall (a) prepare the staff report, (b) schedule the public hearing by the Planning Commission, (c) provide the required public notifications, and (d) forward the application and staff report to the Planning Commission.

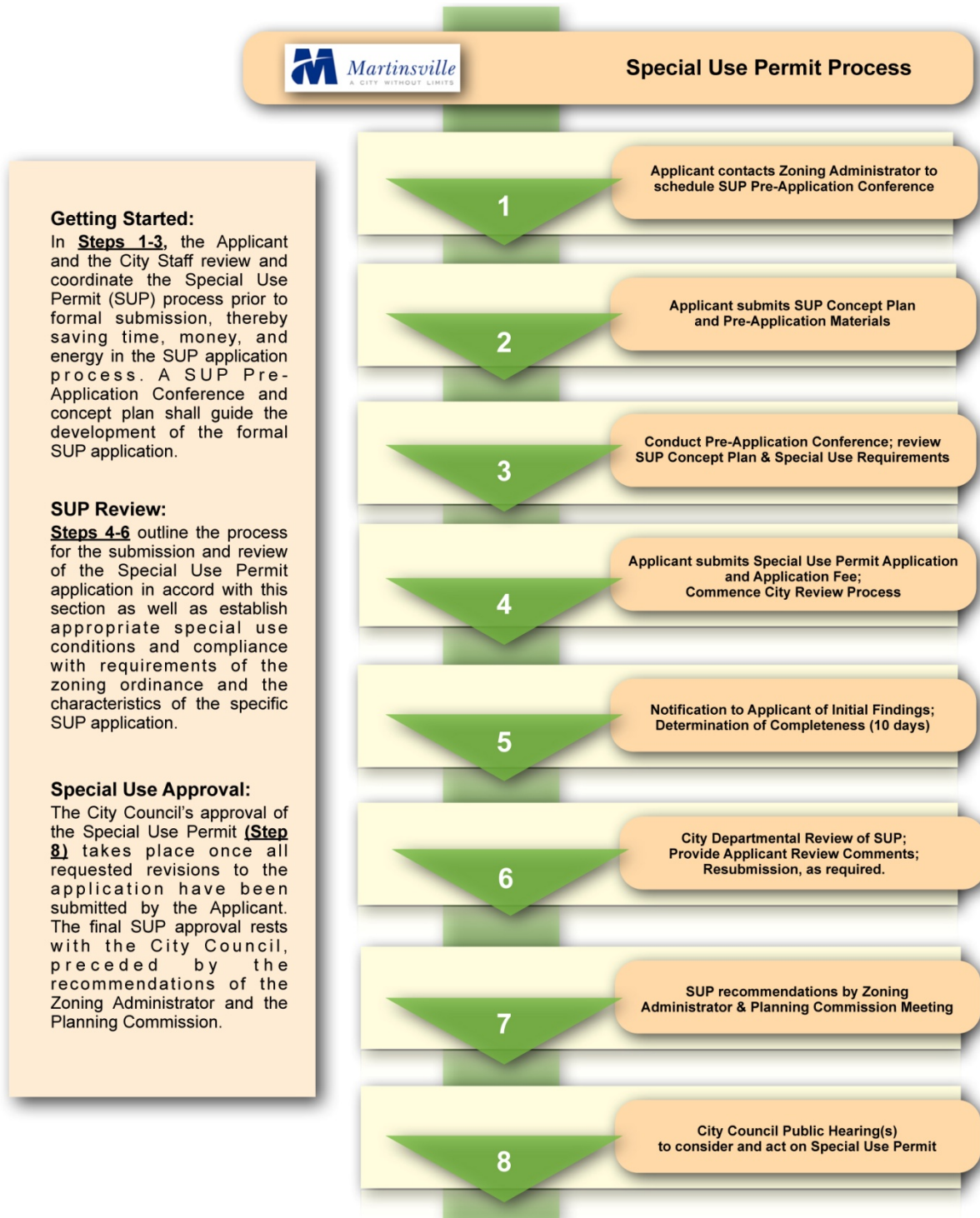
## VIII. Special Use Permits

7. The Planning Commission shall review the application and provide its recommendation to City Council for either approval as submitted, approval with conditions, or denial. Failure of the Planning Commission to report within one hundred (100) calendar days of the first meeting of the Planning Commission shall be deemed approved, unless the application has been withdrawn by the applicant prior to the expiration of the time period.
8. Following the Planning Commission recommendation, the City staff shall (a) schedule the public hearing on the application with the City Council, (b) provide the required public notification, and (c) forward the application, staff report, and Planning Commission recommendation to the City Council.
9. Upon receipt of the report and recommendation of the Planning Commission, the City Council shall conduct at least one public hearing and take final action on such application within one hundred (100) calendar days from the date of action by the Planning Commission.
10. The City Council reviews and decides on the application following a public hearing.
11. The City Council may include special conditions of approval with a Special Use Permit and may also require posting of a performance guarantee.
12. The applicant shall sign and record a notice of Special Use, to be recorded in the Circuit Court of the City of Martinsville. Proof of recording must be submitted to the Office of the Zoning Administrator within 30 calendar days of action or the approval shall become null and void.
13. The City Council may revoke a Special Use Permit for failure to comply with the conditions of approval.
14. Any use authorized by a Special Use Permit shall commence within two years of the date of approval of the Special Use Permit unless provided otherwise by the City Council. Failure to commence use within the timeframe shall render the approval by City Council null and void.

## **I. Amendments and Variations of Conditions**

There shall be no amendment, change or variation of any condition created pursuant to the provisions of this Section until after a public hearing before City Council advertised pursuant to the provisions of the Code of Virginia.

## **VIII. Special Use Permits**



## *IX.* R-E , Estate Residential District

### A. Purpose and Intent

The R-E, Estate Residential District (formerly and replacing the R-16) is intended to preserve existing, stable low-density residential areas, including the Druid Hills neighborhood. The R-E District is also intended to facilitate the development of new housing on infill and a limited number of vacant lots in this zoning district.

The R-E District is the City's lowest density district for detached single family residences. The intent of the district is to respect the character of the existing neighborhoods, preserve natural features and vegetation, promote compatible architectural design, facilitate the efficient layout and orientation of utilities and community infrastructure, and encourage housing with compatible scale and architectural character.

In cases where more creative residential development is desirable or as may be dictated by terrain features, cluster subdivisions may be implemented in the R-E District by special use permit. Cluster subdivisions may be developed at a density that is generally greater than that which can be otherwise achieved by conventional R-E District lot and yard regulations. Applicants are encouraged to pursue cluster development where a mix of residential dwelling types, limited to a mix of single family attached, semi-detached and attached forms of housing, is desirable, and provided that transportation access, infrastructure and locational conditions are conducive to this form of land use.

Cluster subdivisions shall promulgate the efficient use of land, environmental protection, sound grading practices, adequate community facilities, and appropriate open space and recreation areas. Provisions are included herein to permit cluster subdivisions with densities greater than conventional subdivisions.

### B. Lot and Building Standards

Regulated by Table 9.1; see following page 9-2.

Lot and Building Standards		(Table 9.1)					R-E	
Density & Geometric Standards		Single-Family Detached (Conventional) *	Single-Family Detached (Cluster) *	Single-Family Attached (Cluster) *	Multi-Family (Cluster) *	Non-Residential (Institutional) *		
Use Permitted	P	SP *	SP *	SP	SP&P *			
Minimum District Size (Acres)	nr	5.0	5.0	5.0	SP *			
Residential Density* (Maximum)	nr	3.5 du/ac*	8 du/ac *	16 du/ac *				
Lot Area (SF, Minimum)	16,000 sf	9,000 sf	1,800 sf	SPR *	SPR			
Lot Width (Minimum)								
Interior	85	70	20	SPR *	SP *			
Corner	100	80	45	SPR *	SP *			
Lot Depth (Minimum)								
Interior	120	90	90	SPR *	SP *			
Corner	100	90	90	SPR *	SP *			
Building Height (Maximum)	45 *	45 *	45 *	SPR *	60 *			
Front Setback (Minimum)	65 *	25	20	60 *	SP *			
Side Setback (Minimum)				25				
Interior	15	15	0		SP *			
Corner	35 *	25	20		SP *			
Rear Setback (Minimum)	35 *	25 *	25 *	25 *	SP *			
Maximum Lot Coverage (%)	50%	70%	SP *	SP *	SP *			
Open Space (% , Minimum)	nr	20% *	20% *	20% *	nr			

P = Permitted Use

SP = By Special Use Permit

NP = Not Permitted

nr = Not Regulated

SPR = Established by Site Plan and Plat

\* = See Additional Regulations &amp; R-C District Requirements

Units in Feet (') Unless Otherwise Noted

R-E



### C. Uses Permitted By Right

1. Accessory uses and structures
2. Bed and breakfast home stay
3. Churches and places of worship
4. Community gardens
5. Duplex Residential Unit (subject to Residential Lot Development Plan approval)
6. Group homes (8 or fewer residents)
7. Home occupations
8. Public parks, playgrounds, and open space
9. Single family detached dwellings

### D. Uses Permitted By Special Use Permit

1. Accessory residential dwelling unit. A maximum of one unit per lot, with location restricted to (a) a portion of the primary dwelling, (b) a free standing cottage, or (c) the upper level of a free standing or attached garage serving the primary dwelling. See Additional Regulations for supplemental lot and building standards.
2. Assisted living facilities
3. Bed and breakfast inn
4. Cemetery or mausoleum
5. Commercial pool, tennis, or recreation facility
6. Community recreation uses for subdivision residents
7. Day care, for children
8. Day care, for adults
9. Golf course
10. Group home (9 or more residents)
11. Library
12. Multi-family residential (per R-C District multi-family cluster requirements)
13. Museums or historic site
14. Nursing home
15. Private club, lodge, or fraternal organization

16. Public buildings, infrastructure, and other facilities.
17. Residential cluster development (limited to single family attached or detached dwellings)
18. Residential uses in accord with Table 9.1
19. Schools, colleges and academic institutions
20. Temporary marketing offices for new residential development
21. Waiver of minimum district size for cluster subdivisions

## **E. Additional Regulations**

1. Frontage, Conventional Subdivisions: All single family detached dwellings and lots related thereto in a conventional subdivision shall have frontage on and direct access to a public street.
2. Yard and Setback Modification: Many Martinsville neighborhoods were constructed prior to zoning regulations. Where new single family detached infill or redevelopment projects are proposed, the Zoning Administrator may modify the yard and setback requirements of the ordinance to better match the prevailing yard and setback dimensions of nearby homes. In doing so, the Zoning Administrator may consider modifications when 50% or more of residential lots within 500 feet of the subject property contain existing single family detached dwellings, and may modify yard and setback requirements to match the average of existing single family detached dwellings within 500 feet of the subject property.
3. Pre-Application Conference: Applications for special permit uses within the R-E District shall require a pre-application conference and the submission of a concept plan.
4. Recreational vehicle parking shall not be permitted within front yard and side yard setbacks.
5. No private domestic well and septic systems shall be permitted on any lot approved after the date of adoption of this ordinance.
6. All exterior maintenance equipment, including HVAC equipment, electrical equipment, storage tanks, satellite dishes, and garbage dumpsters, shall be screened from off-site and on-site common area view in an architecturally integrated manner and otherwise in accord with the requirements of the Zoning Administrator. Utility infrastructure shall be located in areas that are not highly visible from the public.
7. The maximum allowable building height for institutional buildings in the R-E District shall include the height of cupolas, towers, and steeples.
8. Sidewalks shall be designed to provide for interior circulation as well as access to existing external public rights of way. Sidewalks shall be located to anticipate future adjacent development.
9. The outside edge of a driveway may be no closer than five (5) feet to any side yard property boundary. A residential dwelling lot may be served by more than one driveway entrance from the same street only where driveway entrances are separated by a horizontal distance equal to or greater than eighty (80) feet at the front property line (measured driveway centerline-to-centerline), unless otherwise waived by the Zoning Administrator. Driveway curb cuts shall be in accord with any applicable City design and construction standards.

10. Refer to any applicable City-adopted design and construction standards for public infrastructure, transportation, stormwater management, low impact development, and other site improvements requirements.
11. Refer to General Provisions (Section III) for requirements and conditions for accessory uses within the R-E District.
12. For R-E zoned land that is located within a designated Entrance Corridor Overlay District, EC-O, the guidelines and requirements of the EC-O District shall be applied in addition to the R-E regulations, provided that the Zoning Administrator may, at its sole discretion, modify the R-E lot and building standards (Table 9.1) to more appropriately implement an adopted entrance corridor master plan for the street on which the property is located.
13. For R-E zoned land that is located within the Traditional Neighborhood Development Overlay district, the guidelines and regulations of the overlay district provide more flexible development options. The applicant shall work with the Zoning Administrator and Planning Commission to prepare an alternative set of project-specific lot and building standards to substitute for the lot and building standards for the district. Refer to TND-O District, Section XIX. If TND-O zoned land is located within an Entrance Corridor Overlay District, EC-O, the guidelines and requirements of the EC-O shall be coordinated with and applied in addition to the TND-O regulations.
14. Accessory residential dwelling unit: The ground floor area of a freestanding accessory residential unit shall not exceed 1000 square feet of lot coverage or 33% of the lot coverage of the primary residential unit, whichever is less. Parking for the accessory residential unit shall be in addition to the parking requirement for the primary residential unit, provided that parking shall be restricted to two additional vehicles on a lot.
15. All R-E district uses shall require public water and sewer service.
16. No more than one single family dwelling shall be permitted by-right per lot.
17. Child or adult day care centers shall comply with all applicable state regulations and requirements.
18. See Section III.N. for requirements related to short-term rental occupancy.

## **F. Cluster Subdivisions: Special Requirements**

1. General: Cluster subdivisions are encouraged in the R-E District where terrain and environmental characteristics create conditions where smaller lot sizes, a mix of dwelling types, preservation of mature trees, and community amenities and open spaces would create a better living environment for its residents. The cluster subdivision option permits the applicant to build on lots of varying size at greater density. Cluster development guidelines provide for open space and recreational features within the subdivision. In addition to single family detached dwellings, single family attached dwellings, such as townhouses, may be permitted in the R-E, subject to approval of conditions attached to a special use permit.
2. Mix of Units: The cluster subdivision option encourages a mix of residential dwelling units and lot sizes with single family detached dwellings being the dominant unit type. The number of single family attached dwellings shall not exceed one-third of the total number of approved residential units in the R-E cluster subdivision.
3. Concept Plan: A concept plan in accord with the requirements of Section VII shall be required with the application for a cluster subdivision special use permit. The applicant shall schedule a pre-

application meeting with the Zoning Administrator to review the general scope of the project and to determine the specific requirements of the concept plan and other matters related to the special use permit application.

4. Frontage, Cluster Subdivisions: All residential uses and lots related thereto in a cluster subdivision shall have frontage on and direct access to either: (1) a dedicated public street, or (2) a private street (with or without combined parking located on the private street) subject to approval by the Zoning Administrator. If access is to be provided by means of a private street, the private street or combined private street and parking facilities shall be constructed in accordance with any applicable City design standards and private access and parking easement requirements.
5. Density of Cluster Development: The total number of residential dwelling units permitted in a cluster subdivision shall be based on the maximum residential density for each dwelling type (see Table 9.1) multiplied by the net developable area of the cluster subdivision. The net developable area is defined as the gross area of the site less the area of the following land characteristics: (a) wetlands and water features, (b) stream valleys, rivers, and 100-year floodplain, and (c) soil limitations, geological features, and slopes greater than 30%, and (d) adverse terrain characteristics that are otherwise unsuited for the character and form of proposed residential development. The subdivision application shall provide map exhibits and calculations for the net land area of the property. *(For example, if 33% of a hypothetical 50 net acres of a site is to be allocated to townhouse development, the allowable townhouse density would be calculated as follows:  $33\% \times 50 \text{ net acres} \times 5 \text{ DU/AC} = 83 \text{ townhouse dwelling units.}$ )* However, in no instance shall the applicant be limited by this section to a number of clustered residential dwellings that can be demonstrated by the applicant to yield less than what could otherwise be legally achievable on the property under conventional R-E District lot size and yard regulations.
6. Lot Characteristics: Individual residential lots within a cluster subdivision shall be designed and platted such that not greater than 20% of the required minimum lot area for each lot is comprised of one or more of the following physical land units: (a) slopes 30% or greater, (b) stormwater management facilities, (c) wetlands or water features, (d) 100-year floodplains, and (e) transmission lines and easements.
7. No more than one single-family detached dwelling may be located on a single lot in a cluster subdivision.
8. Single-family attached buildings shall contain at least two but no more than eight side-by-side dwelling units.
9. The façades of attached dwellings in a group shall be varied in their setbacks, exterior architectural materials, or design so that no more than three abutting dwellings will have the same or essentially the same architectural treatment of façades and rooflines.
10. Single-family attached buildings shall maintain a minimum setback of fifteen (15) feet of separation from private streets, alleys, travel aisles.
11. Single family attached dwellings shall maintain a minimum setback of ten (10) feet from on- or off-street parking areas, sidewalks, and pedestrian trails.
12. Open Space Requirement: Twenty percent (20%) of the gross site area of a cluster subdivision shall be common open space dedicated to common usage and ownership. Twenty-five percent (25%) of the required open space area shall be developed as active recreational space and active community open space to serve the needs of the residents of the cluster neighborhood. The uses of this space shall be defined with the special use permit and may include playground equipment, tot lots, picnic areas, shelters, grills, ball playfields, sports courts, jogging paths, walking and biking trails, gardens or

seasonal planting areas for the subdivision, swimming pools, community facilities and other improvements.

13. No more than one-third of the required common open space in a cluster subdivision shall consist of land classified as 100 year floodplain, stream valleys, wetlands, water features, stormwater management and BMP facilities, adverse soils, geologic or terrain characteristics, slopes greater than 30%, and/or drainage easements.
14. Required open space shall be contiguous and shall occupy a single parcel or lot within the subdivision unless a mix of parcels or lots are otherwise approved by the Planning Commission. Open space, recreational areas and other common properties are not subject to the lot requirements as established by R-E, Table 9.1, but the lot shall be subject to additional special use permit conditions.
15. Open space credit shall not be given for land which is included in or reserved for public rights of way or private travelways, loading areas, yard requirements for attached dwellings, required sidewalks or parking areas. Sidewalks and parking areas designed for and devoted entirely to the provision of access to open space may be counted towards open space in net developable area computations.
16. Open space shall be accessible to all residential lots and residents within the cluster subdivision via dedicated pedestrian access easements. Access easements may be counted towards open space requirement.
17. A landscaped perimeter buffer may be required of any cluster development in accordance with the Section XXII of this ordinance. The design of any such buffer shall be depicted on a landscape plan.
18. All common open space, recreational areas and other common properties shall be developed and preserved for their intended purpose as shown on the approved site plan and shall be established by metes and bounds on the subdivision plat.
19. Homeowners' or Property Owners, Association: Common open space, recreational areas and other common properties in a cluster subdivision shall be owned, administered, and maintained by a not-for-profit, property owners' association, provided, however, that a portion or all of such properties may be dedicated to the City subject to and at the sole discretion of the City Council for acceptance at time of plat recordation. For open space, recreational areas, and other common properties to be retained by the property owners' association of a cluster subdivision, the initial developer/owner of the subdivision shall establish the property owners' association as a legal entity prior to the recordation of the final plat.
20. Property owners' association by-laws, articles of incorporation and restrictive covenants shall be submitted with any application for subdivision plat and site plan approval. Restrictive covenants shall specify the detailed means by which the property owners entity shall govern and manage itself and maintain building exteriors, landscaping, lighting, recreation areas, walkways, pedestrian trails, parking areas, snow removal, travelways and other common elements of the development.
21. Prior to final approval of a subdivision plat including properties to be owned by a property owners' association, the City Attorney may review the bylaws, articles of incorporation and restrictive covenants.
22. Condominiums: Any proposed condominium development shall be established to ensure full conformity with the Virginia Condominium Act, and shall be subject to the following provisions:
  - a. All setbacks, density, and other R-E district provisions shall be met,
  - b. Minimum lot and yard requirements shall be met as if lot lines existed, and

- c. A site plan shall be required and shall govern the location of all site structures and improvements on final plans

## X. R-N, Neighborhood Residential District

### A. Purpose and Intent

The R-N, Neighborhood Residential District (formerly R-9) is intended to preserve and enhance existing medium density residential neighborhoods, including portions of the Forest Park, Druid Hills, Chatham Heights, Northside, and West End neighborhoods. The primary goal is to maintain the stability and attractiveness of these substantially built-out areas of the City. The R-N is also intended to accommodate the development of new medium density neighborhoods and projects.

With an average density of three to four units per acre, the R-N District is the City's medium density district for detached single family residences. The intent of the district is also to preserve existing natural features and vegetation, promote excellent site planning and design, facilitate the efficient layout and orientation of utilities and community infrastructure, and encourage housing with compatible scale and architectural character.

In cases where more creative residential development is desirable, cluster subdivisions may be implemented in the R-N District by right. Cluster subdivisions may be developed at a density that is generally greater than that which can be otherwise achieved by conventional R-N District lot and yard regulations. Applicants are encouraged to pursue cluster development where a mix of residential dwelling types is desirable, provided that access, infrastructure, terrain, and locational conditions are conducive to this form of land use. Multifamily dwellings shall require a special use permit.

Cluster subdivisions shall promulgate the efficient use of land, environmental protection, sound grading practices, adequate community facilities, and appropriate open space and recreation areas. Provisions are included herein to permit cluster subdivisions with densities greater than conventional subdivisions.

### B. Lot and Building Standards

Regulated by Table 10.1; see following page 10-2.

## Lot and Building Standards

(Table 10.1)

**R-N**

Density & Geometric Standards	Single-Family Detached (Conventional) *	Single-Family Detached (Cluster) *	Single-Family Attached (Cluster) *	Multi-Family (Cluster) *	Non-Residential (Institutional) *
Use Permitted	P	P	P	SP	SP&P *
Minimum District Size (Acres)	nr	5.0	5.0	5.0	SPR *
Residential Density* (Maximum)	nr	5 du/ac *	8 du/ac *	14 du/ac *	
Lot Area (SF, Minimum)	9,000 sf	6,000 sf	1,800 sf	SP *	SPR *
Lot Width (Minimum)					
Interior	70	50	20	SP *	SPR *
Corner	90	65	40	SP *	SPR *
Lot Depth (Minimum)					
Interior	100	90	85	SP *	SPR *
Corner	90	90	85	SP *	SPR *
Building Height (Maximum)	45 *	45 *	45 *	60 *	60 *
Front Setback (Minimum)	35 *	25	15	25	25, SPR *
Side Setback (Minimum)					
Interior	10	7.5	0	25	25, SPR *
Corner	30	20	20	25	25, SPR *
Rear Setback (Minimum)	30	25	25	25	25, SPR *
Maximum Lot Coverage (%)	50%	60%	SP *	SP *	SPR *
Open Space (% , Minimum)	nr	20% *	20% *	20% *	SPR *

P = Permitted Use

SP = By Special Use Permit

NP = Not Permitted

nr = Not Regulated

SPR = Established by Site Plan and Plat

\* = See Additional Regulations

Units in Feet (') Unless Otherwise Noted

**R-N**



### C. Uses Permitted By Right

1. Accessory uses and structures
2. Bed and breakfast home stay
3. Churches and places of worship
4. Community gardens
5. Duplex Residential Unit (subject to Residential Lot Development Plan approval)
6. Group homes (8 or fewer residents)
7. Home occupations
8. Public parks, playgrounds, and open space
9. Residential cluster development (limited to single family attached or detached dwellings)
10. Single family detached dwellings

### D. Uses Permitted By Special Use Permit

1. Accessory residential dwelling unit. A maximum of one unit per lot, with location restricted to (a) a portion of the primary dwelling, (b) a free standing cottage, or (c) the upper level of a free standing or attached garage serving the primary dwelling. See Additional Regulations for supplemental lot and building standards.
2. Assisted living facilities
3. Bed and breakfast inn
4. Cemetery or mausoleum
5. Commercial pool, tennis, or recreation facility
6. Community recreation uses for subdivision residents
7. Day care, for children
8. Day care, for adults
9. Golf course.
10. Group home (9 or more residents)
11. Library
12. Multi-family dwelling in a cluster development or adaptive re-use
13. Museums or historic site
14. Nursing home
15. Private club, lodge, or fraternal organization
16. Public buildings, infrastructure, and other facilities.

## X. R-N Neighborhood Residential

17. Residential uses in accord with Table 10.1
18. Schools, colleges and academic institutions
19. Temporary marketing offices for new residential development
20. Waiver of minimum district size for cluster subdivisions

## E. Additional Regulations

1. Frontage, Conventional Subdivisions: All single family detached dwellings and lots related thereto in a conventional subdivision shall have frontage on and direct access to a public street.
2. Yard and Setback Modification: Many Martinsville neighborhoods were constructed prior to zoning regulations. Where new single family detached infill or redevelopment projects are proposed, the Zoning Administrator may modify the yard and setback requirements of the ordinance to better match the prevailing yard and setback dimensions of nearby homes. In doing so, the Zoning Administrator may consider modifications when 50% or more of residential lots within 500 feet of the subject property contain existing single family detached dwellings, and may modify yard and setback requirements to match the average of existing single family detached dwellings within 500 feet of the subject property.
3. Pre-Application Conference: Applications for special permit uses within the R-N District shall require a pre-application conference and the submission of a concept plan.
4. Recreational vehicle parking shall not be permitted within front yard and side yard setbacks.
5. No private domestic well and septic systems shall be permitted on any lot approved after the date of adoption of this ordinance.
6. All exterior maintenance equipment, including HVAC equipment, electrical equipment, storage tanks, satellite dishes, and garbage dumpsters, shall be screened from off-site and on-site common area view in an architecturally integrated manner and otherwise in accord with the requirements of the Zoning Administrator. Utility infrastructure shall be located in areas that are not highly visible from the public.
7. The maximum allowable building height for institutional buildings in the R-N District shall include the height of cupolas, towers, and steeples.
8. Sidewalks shall be designed to provide for interior circulation as well as access to existing external public rights of way. Sidewalks shall be located to anticipate future adjacent development.
9. The outside edge of a driveway may be no closer than five (5) feet to any side yard property boundary. A residential dwelling lot may be served by more than one driveway entrance from the same street only where driveway entrances are separated by a horizontal distance equal to or greater than sixty (60) feet at the front property line (measured driveway centerline-to-centerline), unless otherwise waived by the Zoning Administrator. Driveway curb cuts shall be in accord with any applicable City design and construction standards.
10. Refer to any applicable City-adopted design and construction standards for public infrastructure, transportation, stormwater management, low impact development, and other site improvements requirements.
11. Refer to General Provisions (Section III) for requirements and conditions for accessory uses within the R-N District.

## X. R-N Neighborhood Residential

12. For R-N zoned land that is located within a designated Entrance Corridor Overlay District, EC-O, the guidelines and requirements of the EC-O District shall be applied in addition to the R-N regulations, provided that the Zoning Administrator may, at its sole discretion, modify the R-N lot and building standards (Table 10.1) to more appropriately implement an adopted entrance corridor master plan for the street on which the property is located.
13. For R-N zoned land that is located within the Traditional Neighborhood Development Overlay district, the guidelines and regulations of the overlay district provide more flexible development options. The applicant shall work with the Zoning Administrator and Planning Commission to prepare an alternative set of project-specific lot and building standards to substitute for the lot and building standards for the district. Refer to TND-O District, Section XIX. If TND-O zoned land is located within an Entrance Corridor Overlay District, EC-O, the guidelines and requirements of the EC-O shall be coordinated with and applied in addition to the TND-O regulations.
14. Accessory residential dwelling unit: The ground floor area of a freestanding accessory residential unit shall not exceed 1000 square feet of lot coverage or 33% of the lot coverage of the primary residential unit, whichever is less. Parking for the accessory residential unit shall be in addition to the parking requirement for the primary residential unit, provided that parking shall be restricted to two additional vehicles on a lot.
15. All R-N district uses shall require public water and sewer service.
16. No more than one single family dwelling shall be permitted by-right per lot.
17. Child or adult day care centers shall comply with all applicable state regulations and requirements.
18. See Section III.N. for requirements related to short-term rental occupancy.

## F. Cluster Subdivision: Special Requirements

1. General: Cluster subdivisions are encouraged in the R-N District where terrain and environmental characteristics create conditions where smaller lot sizes, a mix of dwelling types, preservation of mature trees, and community amenities and open spaces would create a better living environment for its residents. The cluster subdivision option permits the applicant to build on lots of varying size at greater density. Cluster development guidelines provide for open space and recreational features within the subdivision. In addition to single family detached dwellings, single family attached dwellings (townhouses) and multifamily dwellings may be permitted in the R-N, subject to approval of conditions attached to a special use permit.
2. Mix of Units: The cluster subdivision option encourages a mix of residential dwelling units and lot sizes with single family detached dwellings being the dominant unit type. The number of single family attached dwellings and multifamily dwellings shall not exceed fifty percent (50%) of the total number of approved residential units in the R-N cluster subdivision. There is no required mix of attached and multifamily dwellings.
3. Concept Plan: A concept plan in accord with the requirements of Section VIII shall be required with the application for a cluster subdivision special use permit. The applicant shall schedule a pre-application meeting with the Zoning Administrator to review the general scope of the project and to determine the specific requirements of the concept plan and other matters related to the special use permit application.
4. Frontage, Cluster Subdivisions: All residential uses and lots related thereto in a cluster subdivision shall have frontage on and direct access to either: (1) a dedicated public street, or (2) a private street

## X. R-N Neighborhood Residential

(with or without combined parking located on the private street) subject to approval by the Zoning Administrator. If access is to be provided by means of a private street, the private street or combined private street and parking facilities shall be constructed in accordance with any applicable City design standards and private access and parking easement requirements.

5. Density of Cluster Development: The total number of residential dwelling units permitted in a cluster subdivision shall be based on the maximum residential density for each dwelling type (see Table 10.1) multiplied by the net developable area of the cluster subdivision. The net developable area is defined as the gross area of the site less the area of the following land characteristics: (a) wetlands and water features, (b) stream valleys, rivers, and 100-year floodplain, and (c) soil limitations, geological features, and slopes greater than 30%, and (d) adverse terrain characteristics that are otherwise unsuited for the character and form of proposed residential development. The subdivision application shall provide map exhibits and calculations for the net land area of the property. *(For example, if 33% of a hypothetical 50 net acres of a site is to be allocated to townhouse development, the allowable townhouse density would be calculated as follows:  $33\% \times 50 \text{ net acres} \times 8 \text{ DU/AC} = 132 \text{ townhouse dwelling units.}$ )* However, in no instance shall the applicant be limited to a number of clustered residential dwellings that can be demonstrated by the applicant to yield less than what could otherwise be legally achievable on the property under conventional R-N District lot size and yard regulations.
6. Lot Characteristics: Individual residential lots within a cluster subdivision shall be designed and platted such that not greater than 20% of the required minimum lot area for each lot is comprised of one or more of the following physical land units: (a) slopes 30% or greater, (b) stormwater management facilities, (c) wetlands or water features, (d) 100-year floodplains, and (e) transmission lines and easements.
7. No more than one single-family detached dwelling may be located on a single lot in a cluster subdivision.
8. A single-family attached buildings shall contain at least two but no more than eight side-by-side dwelling units.
9. The façades of attached dwellings in a group shall be varied in their setbacks, exterior architectural materials, or design so that no more than three abutting dwellings will have the same or essentially the same architectural treatment of façades and rooflines.
10. Single-family attached buildings shall maintain a minimum setback of fifteen (15) feet of separation from private streets, alleys, travel aisles.
11. Single family attached dwellings shall maintain a minimum setback of ten (10) feet from on- or off-street parking areas, sidewalks, and pedestrian trails.
12. Open Space Requirement: Twenty percent (20%) of the gross site area of a cluster subdivision shall be common open space dedicated to common usage and ownership. Twenty-five percent (25%) of the required open space area shall be developed as active recreational space and active community open space to serve the needs of the residents of the cluster neighborhood. The uses of this space shall be defined with the special use permit and may include playground equipment, tot lots, picnic areas, shelters, grills, ball playfields, sports courts, jogging paths, walking and biking trails, gardens or seasonal planting areas for the subdivision, swimming pools, community facilities and other improvements.
13. No more than thirty-three percent (33%) of the required common open space in a cluster subdivision shall consist of land classified as 100 year floodplain, stream valleys, wetlands, water features, stormwater management and BMP facilities, adverse terrain and slopes greater than 30%, and/or drainage easements.

14. Required open space shall be contiguous and shall occupy a single parcel or lot within the subdivision unless a mix of parcels or lots are otherwise approved by the Planning Commission. Open space, recreational areas and other common properties are not subject to the lot requirements as established by R-N, Table 10.1, but the lot shall be subject to additional special use permit conditions.
15. Open space credit shall not be given for land which is included in or reserved for public rights of way or private travelways, loading areas, yard requirements for attached and multifamily dwellings, required sidewalks or parking areas. Sidewalks and parking areas designed for and devoted entirely to the provision of access to open space may be counted towards open space in net developable area computations.
16. Open space shall be accessible to all residential lots and residents within the cluster subdivision via dedicated pedestrian access easements. Access easements may be counted towards open space requirement.
17. A landscaped perimeter buffer shall be provided around a portion or all of the perimeter of a cluster development when the Zoning Administrator determines it is necessary to protect existing adjacent development from adverse visual impacts or to present an appearance compatible with an established pattern of adjacent development. The buffer design shall be depicted on the landscape plan.
18. All common open space, recreational areas and other common properties shall be developed and preserved for their intended purpose as shown on the approved site plan and shall be established by metes and bounds on the subdivision plat.
19. Homeowners' or Property Owners' Association: Common open space, recreational areas and other common properties in a cluster subdivision shall be owned, administered, and maintained by a not-for-profit, property owners' association, provided, however, that a portion or all of such properties may be dedicated to the City subject to and at the sole discretion of the City Council for acceptance at time of plat recordation. For open space, recreational areas, and other common properties to be retained by the property owners' association of a cluster subdivision, the initial developer/owner of the subdivision shall establish the property owners' association as a legal entity prior to the recordation of the final plat.
20. Property owners' association by-laws, articles of incorporation and restrictive covenants shall be submitted with any application for subdivision plat and site plan approval. Restrictive covenants shall specify the detailed means by which the property owners entity shall govern and manage itself and maintain building exteriors, landscaping, lighting, recreation areas, walkways, pedestrian trails, parking areas, snow removal, travelways and other common elements of the development.
21. Prior to final approval of a subdivision plat including properties to be owned by a property owners' association, the City Attorney may review the bylaws, articles of incorporation and restrictive covenants.
22. Condominiums: Any proposed condominium development shall be established to ensure full conformity with the Virginia Condominium Act, and shall be subject to the following provisions:
  - a. All setbacks, density, and other R-N district provisions shall be met
  - b. Minimum lot and yard requirements shall be met as if lot lines existed
  - c. A site plan shall be required and shall govern the location of all site structures and improvements on final plans

## *XI.* R-C, City Residential District

### A. Purpose and Intent

The R-C, City Residential District (formerly R-6) recognizes the City's urban density residential neighborhoods that, for the most part, are located within close proximity to Uptown and other non-residential districts. The R-C District is applicable to both undeveloped tracts and existing stable neighborhoods, permitting residential density higher than that of the R-N and R-E districts.

With conventional subdivision lots sizes of 6000 square feet and greater, the R-C District is the City's highest density single family district. The intent of the district is to encourage residential housing of compatible scale and architectural character on smaller lots, conserve existing natural features, promote quality site planning, and facilitate the efficient layout and orientation of utilities and community infrastructure.

Cluster subdivisions are encouraged for development on suitable properties and may be implemented as a by-right use, creating the option for varied residential building types and more efficient subdivision site planning. Cluster subdivisions may be developed at a density that is generally greater than that which can be otherwise achieved by conventional R-C District lot and yard regulations. Attached dwellings and multi-family dwellings on reduced size lots may be integrated into cluster projects. Multifamily dwellings shall require a special use permit.

Cluster subdivisions shall incorporate sound site development practices in areas of environmentally sensitive features, adequate community facilities, and appropriate open space and recreation areas.

### B. Lot and Building Standards

Regulated by Table 11.1; see following page 11-2.

## Lot and Building Standards

(Table 11.1)

R-C

Density & Geometric Standards	Single-Family Detached (Conventional) *	Single-Family Detached (Cluster) *	Single-Family Attached (Cluster) *	Multi-Family (Cluster) *	Non-Residential (Institutional) *
Use Permitted	P	P	P	SP	SP&P *
Minimum District Size (Acres)	nr	5.0	5.0	5.0	*
Residential Density* (Maximum)	nr	5 du/ac *	9 du/ac *	16 du/ac *	
Lot Area (SF)					
Minimum	6,000 sf	4,500 sf	1,600 sf	SPR *	
Maximum	nr	8,000 sf	nr	SPR *	
Lot Width (Minimum)					
Interior	60	45	16	SPR *	
Corner	75	60	35	SPR *	
Lot Depth (Minimum)					
Interior	90	90	85	SPR *	
Corner	80	90	85	SPR *	
Building Height (Maximum)	45 *	45 *	45 *	60 *	
Front Setback (Minimum)	25 *	15	15	25	
Side Setback (Minimum)					
Interior	7.5	7.5	0	25	
Corner	25	15	15	25	
Rear Setback (Minimum)	25	20	25	25	
Maximum Lot Coverage (%)	60%	70%	SP *	SPR *	
Open Space (% , Minimum)	nr	20% *	20% *	SPR *	

P = Permitted Use

SP = By Special Use Permit

NP = Not Permitted

nr = Not Regulated

SPR = Established by Site Plan and Plat

\* = See Additional Regulations

Units in Feet (' ) Unless Otherwise Noted

R-C

### C. Uses Permitted By Right

1. Accessory uses and structures
2. Bed and breakfast home stay
3. Churches and places of worship
4. Community gardens
5. Duplex (subject Residential Lot Development Plan approval)
6. Group homes (8 or fewer residents)
7. Home occupations
8. Public parks, playgrounds, and open space
9. Residential cluster development
10. Single family detached dwellings

### D. Uses Permitted By Special Use Permit

1. Accessory residential dwelling unit. A maximum of one unit per lot, with location restricted to (a) a portion of the primary dwelling, (b) a free standing cottage, or (c) the upper level of a free standing or attached garage serving the primary dwelling. See Additional Regulations for supplemental lot and building standards.
2. Assisted living facilities
3. Attached dwellings
3. Bed and breakfast inn
4. Cemetery or mausoleum
5. Commercial pool, tennis, or recreation facility
6. Community recreation uses for subdivision residents
7. Day care, for children
8. Day care, for adults
9. Golf course
10. Group home (9 or more residents)
11. Library
12. Live-work residence
12. Multi-family dwelling in a cluster development
13. Museums or historic site
14. Nursing home



15. Private club, lodge, or fraternal organization
16. Public buildings, infrastructure, and other facilities
17. Residential uses in accord with Table 11.1.
18. Schools, colleges and academic institutions
19. Temporary marketing offices for new residential development
20. Waiver of minimum district size for cluster subdivisions

## E. Additional Regulations

1. **Frontage, Conventional Subdivisions:** All single family detached dwellings and lots related thereto in a conventional subdivision shall have frontage on and direct access to a public street. Attached dwellings and lots related thereto shall have frontage on and direct access to either: (1) a dedicated public street, or (2) a private street (with or without combined parking located on the private street) subject to approval by the Zoning Administrator. If access is to be provided by means of a private street, the private street or combined private street and parking facilities shall be constructed in accordance with the City's design standards and private access and parking easement requirements.
2. **Yard and Setback Modification:** Many Martinsville neighborhoods were constructed prior to zoning regulations. Where new single family detached infill or redevelopment projects are proposed, the Zoning Administrator may modify the yard and setback requirements of the ordinance to better match the prevailing yard and setback dimensions of nearby homes. In doing so, the Zoning Administrator may consider modifications when 50% or more of residential lots within 500 feet of the subject property contain existing single family detached dwellings, and may modify yard and setback requirements to match the average of existing single family detached dwellings within 500 feet of the subject property.
3. **Pre-Application Conference:** Applications for special permit uses within the R-C District shall require a pre-application conference and the submission of a concept plan.
4. **Recreational vehicle parking** shall not be permitted within front yard and side yard setbacks.
5. **No private domestic well and septic systems** shall be permitted on any lot approved after the date of adoption of this ordinance.
6. **All exterior maintenance equipment**, including HVAC equipment, electrical equipment, storage tanks, satellite dishes, and garbage dumpsters, shall be screened from off-site and on-site common area view in an architecturally integrated manner and otherwise in accord with the requirements of the Zoning Administrator. Utility infrastructure shall be located in areas that are not highly visible from the public.
7. **The maximum allowable building height** for institutional buildings in the R-C District shall include the height of cupolas, towers, and steeples.
8. **Sidewalks** shall be designed to provide for interior circulation as well as access to existing external public rights of way. Sidewalks shall be located to anticipate future adjacent development.
9. **The outside edge of a driveway** may be no closer than three (3) feet to any side yard property boundary. A residential dwelling lot may be served by more than one driveway entrance from the same street only where driveway entrances are separated by a horizontal distance equal to or greater than sixty (60) feet at the front property line (measured driveway centerline-to-centerline),

unless otherwise waived by the Zoning Administrator. Driveway curb cuts shall be in accord with any applicable City design and construction standards.

10. Refer to any applicable City-adopted design and construction standards for public infrastructure, transportation, stormwater management, low impact development, and other site improvements requirements.
11. Refer to General Provisions, Section III, for requirements and conditions for accessory uses within the R-C District.
12. For R-C zoned land that is located within a designated Entrance Corridor Overlay District, EC-O, the guidelines and requirements of the EC-O District shall be applied in addition to the R-C regulations, provided that the Zoning Administrator may, at its sole discretion, modify the R-C lot and building standards (Table 11.1) to more appropriately implement an adopted entrance corridor master plan for the street on which the property is located.
13. For R-C zoned land that is located within the Traditional Neighborhood Development Overlay district, the guidelines and regulations of the overlay district provide more flexible development options. The applicant shall work with the Zoning Administrator and Planning Commission to prepare an alternative set of project-specific lot and building standards to substitute for the lot and building standards for the district. Refer to TND-O District, Section XIX. If TND-O zoned land is located within an Entrance Corridor Overlay District, EC-O, the guidelines and requirements of the EC-O shall be coordinated with and applied in addition to the TND-O regulations.
14. Townhouses and attached dwellings on individual lots (outside of a cluster subdivision) may be permitted by special use permit in the R-C District and further subject to the requirements of this Section.
15. Accessory residential dwelling unit: Parking spaces for an accessory unit shall be in addition to standard parking requirements for the primary residential dwelling.
16. All R-C district uses shall require public water and sewer service.
17. No more than one single family dwelling shall be permitted by-right per subdivision lot.
18. Child or adult day care centers shall comply with all applicable state regulations and requirements.

## **F. Cluster Subdivision: Special Requirements**

1. General: Cluster subdivisions are encouraged by-right in the R-C District where terrain and environmental characteristics create conditions where smaller lot sizes, a mix of dwelling types, preservation of mature trees, and community amenities and open spaces would create a better living environment for its residential. The cluster subdivision option permits the applicant to build at greater density. Cluster development guidelines provide for open space and recreational features within the subdivision. Single family detached or attached dwellings (including townhouses) are permitted by-right and multifamily dwellings may be permitted by special use permit.
2. Mix of Units: The cluster subdivision option encourages a mix of residential dwelling units and lot sizes with single family detached dwellings being the dominant unit type. The combined number of single family attached and multifamily dwellings shall not exceed seventy five percent (75%) of the total number of approved residential units in the R-C cluster subdivision.
3. Concept Plan: A concept plan in accord with the requirements of Section VIII shall be required with the application for a cluster subdivision special use permit. The applicant shall schedule a pre-

application meeting with the Zoning Administrator to review the general scope of the project and to determine the specific requirements of the concept plan and other matters related to the special use permit application.

4. **Frontage, Cluster Subdivisions:** All residential uses and lots related thereto in a cluster subdivision shall have frontage on and direct access to either: (1) a dedicated public street, or (2) a private street (with or without combined parking located on the private street) subject to approval by the Zoning Administrator. If access is to be provided by means of a private street, the private street or combined private street and parking facilities shall be constructed in accordance with any applicable City design standards and private access and parking easement requirements.
5. **Density of Development:** The total number of residential dwelling units permitted in a cluster subdivision shall be based on the maximum residential density for each dwelling type (see Table 11.1) multiplied by the net developable area of the cluster subdivision. The net developable area is defined as the gross area of the site less the area of the following land characteristics: (a) wetlands and water features, (b) stream valleys, rivers, and 100-year floodplain, and (c) soil limitations, geological features, and adverse terrain characteristics that are otherwise unsuited for the character and form of proposed residential development. *(For example, if 33% of a hypothetical 50 net acres of a site is to be allocated to townhouse development, the allowable townhouse density would be calculated as follows:  $33\% \times 50 \text{ net acres} \times 9 \text{ DU/AC} = 149 \text{ townhouse dwelling units.}$ )* The cluster development application shall provide map exhibits and calculations for the net land area of the property. However, in no instance shall the applicant be limited to a number of clustered residential dwellings that can be demonstrated by the applicant to yield less than what could otherwise be legally achievable on the property under conventional R-C District lot size and yard regulations.
6. **Lot Characteristics:** Individual residential lots within a cluster subdivision shall be designed and platted such that not greater than 20% of the required minimum lot area for each lot is comprised of one or more of the following physical land units: (a) slopes 30% or greater, (b) stormwater management facilities, (c) wetlands or water features, (d) 100-year floodplains, and (e) transmission lines and easements.
7. No more than one single-family detached dwelling or attached dwelling may be located on a single lot in a cluster subdivision.
8. A single-family attached buildings shall contain at least two but no more than eight side-by-side dwelling units.
9. The façades of single family attached dwellings in a group shall be varied by changed setbacks or variations in exterior architectural materials or design so that no more than three abutting dwellings will have the same or essentially the same architectural treatment of façades and rooflines.
10. Single-family attached buildings shall maintain a minimum setback of fifteen (15) feet of separation from private streets, alleys, travel aisles.
11. Single family attached dwellings shall maintain a minimum setback of ten (10) feet from on- or off-street parking areas, sidewalks, and pedestrian trails.
12. **Open Space Requirement:** Twenty percent (20%) of the gross site area of a cluster subdivision shall be common open space dedicated to common usage and ownership. Twenty-five percent (25%) of the required open space area shall be developed as active recreational space and active community open space to serve the needs of the residents of the cluster neighborhood. The uses of this space shall be defined with the special use permit and may include playground equipment, tot lots, picnic areas, shelters, grills, ball playfields, sports courts, jogging paths, walking and biking trails, gardens or seasonal planting areas for the subdivision, swimming pools, community facilities and other improvements.

13. No more than thirty-three percent (33%) of the required common open space in a cluster subdivision shall consist of land classified as 100 year floodplain, stream valleys, wetlands, water features, stormwater management and BMP facilities, adverse geological, soils or terrain characteristics, slopes greater than 30%, and/or drainage easements.
14. Required open space shall be contiguous and shall occupy a single parcel or lot within the subdivision unless a mix of parcels or lots are otherwise approved by the Planning Commission. Open space, recreational areas and other common properties are not subject to the lot requirements as established by R-C, Table 11.1, but the lot shall be subject to additional special use permit conditions.
15. Open space credit shall not be given for land which is included in or reserved for public rights of way or private travelways, loading areas, yard requirements for attached and multifamily dwellings, required sidewalks or parking areas. Sidewalks and parking areas designed for and devoted entirely to the provision of access to open space may be counted towards open space in net developable area computations.
16. Open space shall be accessible to all residential lots and residents within the cluster subdivision via dedicated pedestrian access easements. Access easements may be counted towards open space requirement.
17. A landscaped perimeter buffer shall be provided around a portion or all of the perimeter of a cluster development when the Zoning Administrator determines it is necessary to protect existing adjacent development from adverse visual impacts or to present an appearance compatible with an established pattern of adjacent development. The buffer design shall be depicted on the landscape plan.
18. All common open space, recreational areas and other common properties shall be developed and preserved for their intended purpose as shown on the approved site plan and shall be established by metes and bounds on the subdivision plat.
19. Homeowners' or Property Owners' Association: Common open space, recreational areas and other common properties in a cluster subdivision shall be owned, administered, and maintained by a not-for-profit, property owners' association, provided, however, that a portion or all of such properties may be dedicated to the City subject to and at the sole discretion of the City Council for acceptance at time of plat recordation. For open space, recreational areas, and other common properties to be retained by the property owners' association of a cluster subdivision, the initial developer/owner of the subdivision shall establish the property owners' association as a legal entity prior to the recordation of the final plat.
20. Property owners' association by-laws, articles of incorporation and restrictive covenants shall be submitted with any application for subdivision plat and site plan approval. Restrictive covenants shall specify the detailed means by which the property owners' entity shall govern and manage itself and maintain building exteriors, landscaping, lighting, recreation areas, walkways, pedestrian trails, parking areas, snow removal, travelways and other common elements of the development.
21. Prior to final approval of a subdivision plat including properties to be owned by a property owners' association, the City Attorney may review the bylaws, articles of incorporation and restrictive covenants.
22. Condominiums: Any proposed condominium development shall be established to ensure full conformity with the Virginia Condominium Act, and shall be subject to the following provisions:
  - a. All setbacks, density, and other R-C district provisions shall be met.
  - b. Minimum lot and yard requirements shall be met as if lot lines existed.

- c. A site plan shall be required and shall govern the location of all site structures and improvements on final plans.
- 23. Section III.N. for requirements related to short-term rental occupancy.

## *XII.* R-T, Residential Transitional District

### A. Purpose and Intent

The R-T, Transitional Residential District (replacing the formerly P-1, P-2 or RP-1 districts) is intended to serve as a transition between less intensively developed residential zoning districts and more intensively developed areas of the City, including commercial zoning districts. The district recognizes that certain appropriately located residential and non-residential uses may be compatible. If properly designed, managed, and maintained, they can offer a creative opportunity to enhance older, substantially developed neighborhoods with a workable and attractive mix of uses.

Properties zoned for the R-T, Neighborhood Transitional District are primarily located at the edges of the Uptown business district, and in areas where established residential neighborhoods interface with major streets and entrance corridors.

The R-T District allows certain residential uses in combination with non-residential uses including personal service uses, health care uses, and professional office uses that can compliment established residential neighborhoods and serve neighborhood residents in a convenient and attractive way. Large scale retail uses are not permitted in the district, but neighborhood restaurants and coffee shops are encouraged. Individual projects are limited to a floor area ratio (FAR) equal to 0.25 with individual non-residential establishments limited to 5,000 square feet gross floor area.

The intent of the district is also to encourage attractive redevelopment and revitalization of the existing uses, allow for creative infill development, preserve existing natural features and vegetation, promote high quality site planning and architectural design, facilitate the efficient layout and orientation of utilities and community infrastructure.

### B. Lot and Building Standards

Regulated by Table 12.1; page 12-2.

## Lot and Building Standards

(Table 12.1)

# R-T

### Density & Geometric Standards

*By-Right Uses*

*Special Permit Uses \**

*Residential Uses \**

*Mixed Use \**

### Minimum District Size (Acres)

District Size to Conform with Official Zoning Map

<b>Non-Residential FAR (Maximum)</b>	<b>0.5 **</b>	<b>0.5 **</b>		
<b>Lot Area (SF, Minimum)</b>	<b>6,000 sf ***</b>	<b>6,000 sf ***</b>		
<b>Lot Width (Minimum)</b>				
Interior	<b>60</b>			
Corner	<b>75</b>			
<b>Lot Depth (Minimum)</b>	<b>90</b>			
<b>Building Height (Maximum)</b>	<b>45</b>			
<b>Front Setback (Minimum)</b>	<b>25</b>			
<b>Side Setback (Minimum)</b>				
Interior	<b>10</b>			
Corner	<b>25</b>			
<b>Rear Setback (Minimum)</b>				
Abutting ED or C district	<b>25 ***</b>			
Abutting R or T district	<b>40 ***</b>			
<b>Maximum Lot Coverage (%)</b>	<b>70%</b>			
<b>Open Space (% , Minimum)</b>	<b>nr</b>			

P = Permitted Use

SP = By Special Use Permit

NP = Not Permitted

nr = Not Regulated

\* = See Additional Regulations

\*\* = Conditioned on Parking Regulations

\*\*\* = Modified Per Site Plan Approval

Units in Feet (') Unless Otherwise Noted

# R-T

### C. Uses Permitted By Right

**Permitted uses shall be those in the following land use categories which do not exceed a non-residential floor area ratio (FAR) of 0.25 and 5,000 SFGFA per individual establishment:**

1. Accessory uses and structures
2. Artisan craft production
3. Artist studio
4. Attached dwellings
5. Bakery or specialty food store
6. Banks and financial services
7. Bed and breakfast inn, including bed and breakfast home stay
8. Catering establishment
9. Churches and places of worship
10. Coffee shop, limited to 5000 square feet gross floor area and 500 square feet outdoor seating area
11. Community gardens
12. Day care, for children or adults
13. Duplex dwellings (subject to Residential Lot Development Plan approval)
14. Funeral home or mortuary
15. Group homes (8 or fewer residents)
16. Gym or health club
17. Home occupations
18. Library
19. Live-work residence
20. Medical or dental office or laboratory
21. Micro-brewery or tap room, limited to 5000 square feet gross floor area and 500 square feet outdoor seating area
22. Museum or historic site
23. Multi-family dwellings
24. Personal services establishment
25. Professional office space
26. Public parks, playgrounds, and open space
27. Restaurant, limited to 5000 square feet gross floor area and 500 square feet outdoor seating area.
28. Retail sales establishment



- 29. Single family detached dwellings
- 30. Tailoring, alterations or shoe repair

#### **D. Uses Permitted By Special Use Permit**

- 1. Accessory residential dwelling unit. A maximum of one unit per lot, with location restricted to (a) a portion of the primary dwelling, (b) a free standing cottage, or (c) the upper level of a free standing or attached garage serving the primary dwelling. See Additional Regulations for supplemental lot and building standards.
- 2. Alcoholic beverage retail sales
- 3. Assisted living facilities
- 4. Automobile parking (as a stand-alone use)
- 5. Cemetery or mausoleum
- 6. Commercial pool, tennis, or recreation facility
- 7. Community recreation uses for subdivision residents
- 8. Conference center or performance venue
- 9. Convenience store
- 10. Dry cleaning or Laundromat
- 11. Golf course
- 12. Group home (9 or more residents)
- 13. Hospital
- 14. Nursing home
- 15. Outside storage
- 16. Plant nursery or landscape sales
- 17. Private club, lodge, or fraternal organization
- 18. Public buildings, infrastructure, and other facilities
- 19. Repair services establishment
- 20. Residential uses in accord with Table 12.1.
- 21. Schools, colleges and academic institutions
- 22. Telecommunications equipment and towers
- 23. Temporary marketing offices for new residential development
- 24. Urgent care center
- 25. Drug store or pharmacy
- 26. Pet grooming or boarding

## E. Additional Regulations

1. An environmental impact statement may be required for any permitted or special permit use. All uses shall conform to federal, state and City environmental regulations and performance standards and design criteria as related to:
  - a. air pollution
  - b. fire and explosion hazards
  - c. radiation hazards
  - d. electromagnetic radiation and interference hazards
  - e. liquid, gas and solid wastes hazards
  - f. noise standards
  - g. vibration standards
  - h. illumination and glare
  - i. water quality
2. In the evaluation of performance standards for any permitted or special permit use, the City Council, at its sole discretion, may impose other conditions and additional restrictions to that use for the purposes of ensuring the mitigation of impacts and promulgating the health, safety and general welfare of the citizens of Martinsville.
3. All uses except single family detached dwellings shall be subject to site plan approval.
4. All refuse stored on-site shall be contained in completely enclosed and screened facilities.
5. A freestanding use shall have no more than two curb cuts for commercial entrances on any single right of way, and such curb cuts shall have a minimum distance of 100 feet between them.
6. Outdoor storage shall be subject to a special use permit. The location and use of outdoor storage, loading and display areas shall be limited to the designated area(s) on the approved site plan. The outdoor area devoted to storage, loading and display of goods shall be limited to a maximum of 15% of the total lot area and as otherwise designated on an approved site plan. Outdoor storage, loading and display areas in excess of 15% may be approved under special circumstances when the applicant can demonstrate need and provide expanded and enhanced screening, buffers and landscaping.
7. Where a non-residential use is contiguous to property located in any R- district, a landscaped buffer yard shall be provided, with landscape materials and placement subject to site plan approval. Fencing may be required in such cases with fence material and heights subject to site plan approval.
8. All site development activities shall comply with the Virginia Stormwater Management Regulations in effect at the time of site plan application. The applicant shall be responsible for obtaining and providing the City with all requisite state and federal permits.
9. Refer to any applicable City-adopted design and construction standards for public infrastructure, transportation, stormwater management, low impact development, and other site improvements requirements.
10. For properties located within the designated Historic Preservation Overlay (HP-O), refer to the Martinsville Historic District Design Guidelines and the HP-O, Historic Preservation Overlay District regulations for additional design standards and criteria. For properties located within the Historic

District, no site plan shall be approved by the Planning Commission prior to the issuance of a Certificate of Appropriateness by the Architectural Review Board. Conditions attached to the Certificate of Appropriateness shall be included with the site plan application and reflected on the site plan and building permit exhibits.

11. For R-C zoned land that is located within the Traditional Neighborhood Development Overlay district, the guidelines and regulations of the overlay district provide more flexible development options. The applicant shall work with the Zoning Administrator and Planning Commission to prepare an alternative set of project-specific lot and building standards to substitute for the lot and building standards for the district. Refer to TND-O District, Section XIX.
12. Accessory residential dwelling unit: The ground floor area of a freestanding accessory residential unit shall not exceed 1000 square feet of lot coverage or forty (40) percent of the lot coverage of the primary residential unit, whichever is less. Parking for the accessory residential unit shall be in addition to the parking requirement for the primary residential unit, provided that parking shall be restricted to two additional vehicles on a lot. Setback requirements for an accessory residential dwelling unit shall be established by special use permit and as depicted on an approved Residential Lot Development Plan. See Section III: General Provisions for additional regulations.
13. Condominiums: Any proposed condominium development shall be established to ensure full conformity with the Virginia Condominium Act, and shall be subject to the following provisions:
  - a. All setbacks, density, and other R-T district provisions shall be met.
  - b. Minimum lot and yard requirements shall be met as if lot lines existed.
  - c. A site plan shall be required and shall govern the location of all site structures, and improvements on final plans.
14. Child or adult day care centers shall comply with all applicable state regulations and requirements.
14. See Section III.N. for requirements related to short-term rental occupancy.

### *XIII.* C-N, Neighborhood Commercial District

#### A. Purpose and Intent

The C-N, Neighborhood Commercial District (formerly C-1 and C-1A) serves as a transition between the large-scale, automobile-oriented Corridor Commercial District (C-C), and the more urban and walkable Uptown Business District (C-UB). Uses in the C-N district serve nearby neighborhoods with convenient service, office, and retail uses at a smaller scale than is permitted in the C-UB or C-C. Properties zoned C-N are primarily located at the edges of the Uptown business district as well as in select areas along major streets and entrance corridors where larger footprint establishments would be less desirable.

Overall limits on building size and FAR discourage large shopping centers and big-box retail in the C-N District. Focusing on neighborhood and convenience-scaled retail, office, and non-residential uses, the intent of the district is to encourage attractive redevelopment and revitalization of existing uses, allow for creative infill development, preserve existing natural features and vegetation, promote high quality site planning and architectural design, and facilitate the efficient layout and orientation of utilities and community infrastructure.

The C-N District allows new residential development in the form of multi-family buildings, either standing alone, or as a component of mixed use development when implemented with the Traditional Neighborhood Development Overlay (TND-O) District.

#### B. Lot and Building Standards

Regulated by Table 13.1; page 13-2.

# Lot and Building Standards

(Table 13.1)

# C-N

## Density & Geometric Standards

*By-Right Uses*

*Special Permit Uses \**

*Residential Uses \**

*Mixed Use \**

## Minimum District Size (Acres)

District Size to Conform with Official Zoning Map

<b>Non-Residential FAR (Maximum)</b>	<b>0.5 **</b>	<b>0.5 **</b>			
<b>Lot Area (SF, Minimum)</b>	<b>10,000 sf *</b>	<b>10,000 sf *</b>			
<b>Lot Width (Minimum)</b>					
Interior	<b>100 ***</b>				
Corner	<b>125 ***</b>				
<b>Lot Depth (Minimum)</b>	<b>100 ***</b>				
<b>Building Height (Maximum)</b>	<b>45</b>				
<b>Front Setback (Minimum)</b>	<b>15 ***</b>				
<b>Side Setback (Minimum)</b>					
Interior, abutting ED or C district	<b>15 *</b>				
Interior, abutting R or T district	<b>25 *</b>				
Corner, abutting any district	<b>25 *</b>				
<b>Rear Setback (Minimum)</b>					
Abutting ED or C district	<b>20 *</b>				
Abutting R or T district	<b>25 *</b>				
<b>Maximum Lot Coverage (%)</b>	<b>75%</b>				
<b>Open Space (% , Minimum)</b>	<b>nr</b>				

P = Permitted Use

SP = By Special Use Permit

NP = Not Permitted

nr = Not Regulated

\* = See Additional Regulations

\*\* = Conditioned on Parking Regulations

\*\*\* = Modified Per Site Plan Approval

Units in Feet (') Unless Otherwise Noted

# C-N

### C. Uses Permitted By Right

**Permitted uses shall be those in the following land use categories which do not exceed 10,000 gross square feet per individual establishment and a maximum project size limited to a floor area ratio (FAR) of 0.5:**

1. Accessory uses and structures
2. Alcoholic beverage retail sales
3. Artisan craft production
4. Artist studio
5. Assisted living facilities
6. Bakery or specialty food store
7. Banks and financial services
8. Bed and breakfast inn
9. Catering establishment
10. Churches and places of worship
11. Coffee shop
12. Commercial pool, tennis, or recreation facility
13. Community gardens
14. Conference center or performance venue
15. Convenience store
16. Day care, for children or adults
17. Drug store or pharmacy
18. Dry cleaning or Laundromat
19. Funeral home or mortuary
20. Gasoline sales
21. Grocery store
22. Gym or health club
23. Home occupations
24. Library
25. Medical or dental office or laboratory
26. Micro-brewery or tap room
27. Movie theater
28. Museum or historic site
29. Nursing home

30. Personal services establishment
31. Pet grooming and boarding
32. Plant nursery or landscape sales
33. Private club, lodge, or fraternal organization
34. Professional office space
35. Public parks, playgrounds, and open space
36. Radio or television station
37. Restaurant
38. Restaurant, fast food
39. Retail sales establishment
40. Tailoring, alterations or shoe repair
41. Urgent care center
42. Veterinary clinic
43. Vocational or trade school
44. Data center or call center

#### **D. Uses Permitted By Special Use Permit**

1. Automobile parking (as a stand-alone use)
2. Automobile repair and service
3. Automobile sales, including display lot
4. Cemetery or mausoleum
5. Multi-family dwelling
6. Golf course
7. Hospital
8. Hotel or motel
9. Live-work residence
10. Outside storage
11. Pawn shop
12. Public buildings, infrastructure, and other facilities.
13. Rail or bus transit terminal
14. Repair services establishment
15. Research and development
16. Residential uses in accord with Table 13.1

17. Schools, colleges and academic institutions
18. Telecommunications equipment and towers
19. Temporary marketing offices for new residential development
20. Warehouse or self storage facility
21. Wholesale food and beverage production
22. Hydroponic agriculture

## **E. Prohibited Uses**

The specific uses which follow shall not be permitted in the C-N District:

1. Adult entertainment establishments
2. Any use, establishment or activity which in the opinion of the City Council would be injurious, offensive, or noxious by reason of odor, fumes, dust, smoke, vibration, glare, noise or other cause which may be deemed as hazardous to the health, welfare and safety of the public.
3. Uses prohibited in the ED-G and ED-I Districts

## **F. Additional Regulations**

1. The C-N district shall require public water and sewer service, public streets, curb and gutter, and sidewalks as minimum subdivision improvements. No lots shall be permitted with private domestic wells or septic systems. New development shall incorporate fully coordinated storm drainage systems, low impact development measures, landscape improvements, and stormwater management facilities meeting the requirements of the Virginia Stormwater Management regulations.
2. An environmental impact statement may be required for any permitted or special permit use. All uses shall conform to federal, state and City environmental regulations and performance standards and design criteria as related to:
  - a. air pollution
  - b. fire and explosion hazards
  - c. radiation hazards
  - d. electromagnetic radiation and interference hazards
  - e. liquid, gas and solid wastes hazards
  - f. noise standards
  - g. vibration standards
  - h. illumination and glare
  - i. water quality



3. In the evaluation of design and construction standards for any permitted or special permit use, the City Council, at its sole discretion, may impose other conditions and additional restrictions to that use for the purposes of ensuring the mitigation of impacts and promulgating the health, safety and general welfare of the citizens of Martinsville.
4. All uses shall be subject to site plan approval.
5. All refuse stored on-site shall be contained in completely enclosed and screened facilities.
6. A freestanding use shall have no more than two curb cuts for commercial entrances on any single right of way, and such curb cuts shall have a minimum distance of 100 feet between them.
7. Non-residential outdoor storage shall be subject to a special use permit. The location and use of outdoor storage, loading and display areas shall be limited to the designated area(s) on the approved site plan. The outdoor area devoted to storage, loading and display of goods shall be limited to a maximum of 15% of the total lot area and as otherwise designated on an approved site plan. Outdoor storage, loading and display areas in excess of 15% may be approved under special circumstances when the applicant can demonstrate need and provide expanded and enhanced screening, buffers and landscaping.
8. Where a lot is contiguous to property located in a Residential district, a landscaped buffer yard shall be provided, with landscape materials and placement subject to site plan approval. Fencing may be required in such cases with fence material and heights subject to site plan approval.
9. All site development activities shall comply with the Virginia Stormwater Management Regulations in effect at the time of site plan application. The applicant shall be responsible for obtaining and providing the City with all requisite state and federal permits.
10. Refer to any applicable City-adopted design and construction standards for public infrastructure, transportation, stormwater management, low impact development, and other site improvements requirements.
11. For properties located within the Historic Preservation Overlay District (HP-O), refer to the HP-O district and Martinsville Historic District Design Guidelines for additional design standards and criteria. For properties located within the Historic District, no site plan shall be approved by the Planning Commission prior to the issuance of a Certificate of Appropriateness by the Architectural Review Board. Conditions attached to the Certificate of Appropriateness shall be included with the site plan application and reflected on the site plan and building permit exhibits.
12. For properties located within a designated Urban Development Area and TND-O District, the applicant, at its option, may elect to pursue site plan and building approvals under the provisions and requirements of the TND-O District.
13. Accessory residential dwelling unit: The ground floor area of a freestanding accessory residential unit shall not exceed 1000 square feet of lot coverage or forty (40) percent of the lot coverage of the primary residential unit, whichever is less. Parking for the accessory residential unit shall be in addition to the parking requirement for the primary residential unit, provided that parking shall be restricted to two additional vehicles on a lot. Setback requirements for an accessory residential dwelling unit shall be established by special use permit and as depicted on an approved Residential Lot Development Plan. See Section III: General Provisions for additional regulations.
14. Non-residential uses shall establish off-street parking in accord with the parking standards. See Section XXIII. No parking shall be located within the front yard setback for non-residential uses, provided that the Zoning Administrator may modify this requirement where justified by the applicant and subject to approval of acceptable on-site parking configuration on the pre-application plan and site plan.

15. Child or adult day care centers shall comply with all applicable state regulations and requirements.

16. Additional requirements for pawn shops:

- a. Establishment must maintain and file a daily report, as specified by the Code of Virginia Sec. 54.1-4009, electronically with local law enforcement
- b. All of the items collected must be contained within the confines of the actual pawnshop
- c. An approved anti-crime security system must be installed to safeguard the premises
- d. Establishment shall not be located within 1,000 feet of a similar establishment
- e. Establishment must be located at least 1,000 feet from churches, schools, playgrounds
- f. Establishment cannot open for business prior to 10:00 a.m. and must close by 9:00 p.m.

17. See Section III.N. for requirements related to short-term rental occupancy.

## *XIV.* C-UB, Uptown Business District

### A. Purpose and Intent

The C-UB, Uptown Business District (formerly C-2) is established to promote harmonious new development, redevelopment and rehabilitation of uses in the established Uptown area of the City. The regulations of the C-UB District are intended to promote the goals of the Comprehensive Plan for thoughtful Uptown revitalization, redevelopment and historic preservation while encouraging a balanced mix of uses in Martinsville's central business area.

Urban development priorities within the C-UB District are to be placed on: (1) encouraging continued use and revitalization of historic buildings within the district, (2) promoting opportunities for businesses and mixed-uses consistent with Uptown marketplace objectives, (3) reinforcing pedestrian circulation patterns in and around the central business area, (4) minimizing vehicular/pedestrian access conflicts among Uptown land uses, (5) enhancing the character of the Uptown streetscape, (6) maintaining strong continuity with the City's historic architectural precedents, (7) balancing the area's future parking needs with optimal development density, and (8) encouraging land use creativity by employing flexible provisions available through the companion TND-O overlay district for C-UB development activities.

No on-site parking is required for uses in the C-UB District. However, subject to determination by the Planning Commission, new and redevelopment activities may be required to contribute to public parking efforts and expansion plans. Centralized and coordinated public parking within the Uptown is encouraged to serve local business, and tourism uses, while off-street and shared parking parking may be more appropriate for new institutional, residential, mixed-use and large commercial properties. High density residential development and mixed-used development is encouraged to establish residences convenient to places of shopping and work. Outdoor storage and display is tightly governed to promote an attractive and stable urban environment.

### B. Lot and Building Standards

Regulated by Table 14.1; page 14-2.

## Lot and Building Standards

(Table 14.1)

# C-UB

### Density & Geometric Standards

*By-Right Uses*
*Special Permit Uses \**
*Residential Uses \**
*Mixed Use \**

### Minimum District Size (Acres)

District Size to Conform with Official Zoning Map

<b>Non-Residential FAR (Maximum)</b>	<b>4.0 **</b>		<b>4.0 **</b>			
<b>Lot Area (SF, Minimum)</b>	<b>nr *</b>		<b>nr *</b>			
<b>Lot Width (Minimum)</b>						
Interior	<b>nr</b>					
Corner	<b>nr</b>					
<b>Lot Depth (Minimum)</b>	<b>nr</b>					
<b>Building Height (Maximum)</b>	<b>90</b>					
<b>Front Setback (Minimum)</b>						
w/parking in front setback	<b>NP</b>					
w/relegated parking (side or rear)	<b>nr</b>					
Abutting R or T district	<b>nr</b>					
<b>Side Setback (Minimum)</b>						
Interior, abutting ED or C district	<b>nr</b>					
Interior, abutting R or T district	<b>10 *</b>					
Corner, abutting any district	<b>5 *</b>					
<b>Rear Setback (Minimum)</b>						
Abutting ED or C district	<b>nr</b>					
Abutting R or T district	<b>40 ***</b>					
<b>Maximum Lot Coverage (%)</b>	<b>nr</b>					
<b>Open Space (% , Minimum)</b>	<b>nr</b>					

P = Permitted Use

SP = By Special Use Permit

NP = Not Permitted

nr = Not Regulated

\* = See Additional Regulations

\*\* = Conditioned on Parking Regulations

\*\*\* = Modified Per Site Plan Approval

Units in Feet (' ) Unless Otherwise Noted

# C-UB

### C. Uses Permitted By Right

**Permitted uses shall be those in the following categories which do not exceed a floor area ratio (FAR) of 4.0:**

1. Accessory uses and structures
2. Alcoholic beverage retail sales
3. Apartments above commercial
4. Artisan craft production
5. Artist studio
6. Assisted living facilities
7. Automobile parking (as a stand-alone use)
8. Bakery or specialty food store
9. Banks and financial services
10. Bed and breakfast inn
11. Catering establishment
12. Churches and places of worship
13. Coffee shop
14. Commercial pool, tennis, or recreation facility
15. Community gardens
16. Conference center or performance venue
17. Convenience store
18. Data center or call center
19. Day care, for children or adults
20. Drug store or pharmacy
21. Dry cleaning or Laundromat
22. Funeral home or mortuary
23. Grocery store
24. Gym or health club
25. Home occupations
26. Hotel or motel
27. Library
28. Medical or dental office or laboratory
29. Micro-brewery or tap room
30. Movie theater

31. Multi-family dwelling
32. Museum or historic site
33. Nursing home
34. Personal services establishment
35. Pet grooming and boarding
36. Private club, lodge, or fraternal organization
37. Professional office space
38. Public parks, playgrounds, and open space
39. Radio or television station
40. Research and development
41. Residential dwellings as permitted by-right in Table 14.1 herein above
42. Restaurant
43. Restaurant, fast food
44. Retail sales establishment
45. Schools, colleges and academic institutions
46. Tailoring, alterations or shoe repair
47. Urgent care center
48. Vocational or trade school
49. Hydroponic agriculture

#### **D. Uses Permitted By Special Use Permit**

1. Automobile repair and service
2. Cemetery or mausoleum
3. Gasoline sales
4. Heliport or helipad associated with a permitted use
5. Hospital
6. Outside storage
7. Pawn shop
8. Proprietor's residential apartment
9. Plant nursery or landscape sales
10. Public buildings, infrastructure, and other facilities
11. Rail or bus transit terminal
12. Repair services establishment

13. Residential dwellings as permitted as a special use in Table 14.1 herein above
14. Telecommunications equipment and towers
15. Temporary marketing offices for new residential development
16. Veterinary clinic
17. Warehouse or self storage facility
18. Wholesale food and beverage production
19. Wholesale sales and trade

#### **E. Prohibited Uses**

The specific uses which follow shall not be permitted in the C-UB District:

1. Adult entertainment establishments
2. Any use, establishment or activity which in the opinion of the City Council would be injurious, offensive, or noxious by reason of odor, fumes, dust, smoke, vibration, glare, noise or other cause which may be deemed as hazardous to the health, welfare and safety of the public.
3. Prohibited uses in the ED-G and ED-I District regulations

#### **F. Additional Regulations**

1. An environmental impact statement may be required for any permitted or special permit use. All uses shall conform to federal, state and City environmental regulations and performance standards and design criteria as related to:
  - a. air pollution
  - b. fire and explosion hazards
  - c. radiation hazards
  - d. electromagnetic radiation and interference hazards
  - e. liquid, gas and solid wastes hazards
  - f. noise standards
  - g. vibration standards
  - h. illumination and glare
  - i. water quality
2. In the evaluation of performance standards for any permitted or special permit use in the C-UB District, the City Council, at its sole discretion, may impose other conditions and additional restrictions to that use for the purposes of ensuring the mitigation of impacts and promulgating the health, safety and general welfare of the citizens of Martinsville.

3. All uses shall be subject to site plan approval.
4. All refuse stored on-site shall be contained in completely enclosed and screened facilities.
5. A freestanding use shall have no more than two curb cuts for commercial entrances on any single right of way, and such curb cuts shall have a minimum distance of 100 feet between them.
6. Outdoor storage shall be subject to a special use. The location and use of outdoor storage, loading and display areas shall be limited to the designated area(s) on the approved site plan. The outdoor area devoted to storage, loading and display of goods shall be limited to a maximum of 15% of the total lot area and as otherwise designated on an approved site plan. Outdoor storage, loading and display areas in excess of 15% may be approved under special circumstances when the applicant can demonstrate need and provide expanded and enhanced screening, buffers and landscaping.
7. Where a lot is contiguous to property located in an R- district, a landscaped buffer yard shall be provided, with landscape materials and placement subject to site plan approval. Fencing may be required in such cases with fence material and heights subject to site plan approval.
8. Off-street parking: As of the date of adoption of this Ordinance, there are no minimum off-street parking space requirements for existing uses in the C-UB District, provided that new and redevelopment uses may be required to provide off-street parking as determined by the Zoning Administrator and Planning Commission during the site plan review process.
9. All site development activities shall comply with the Virginia Stormwater Management Regulations in effect at the time of site plan application. The applicant shall be responsible for obtaining and providing the City with all requisite state and federal permits.
10. Refer to any City-adopted design and construction standards and policies for public infrastructure, transportation improvements, stormwater management, low impact development, and other site improvements requirements.
11. For properties located within a designated Historic Preservation District (HP-O), refer to the Martinsville Historic District Design Guidelines and the HP-O District regulations for additional design standards and criteria. For properties located within the HP-O District, no site plan shall be approved by the Planning Commission prior to the issuance of a Certificate of Appropriateness by the Architectural Review Board. Conditions attached to the Certificate of Appropriateness shall be included with the site plan application and reflected on the site plan and building permit exhibits.
12. For properties located within a designated Traditional Neighborhood Development Overlay District, the applicant, at its option, may elect to pursue site plan and building approvals under the provisions and requirements of the TND-O District.
13. Condominiums: Any proposed condominium development shall be established to ensure full conformity with the Virginia Condominium Act, and shall be subject to the following provisions:
  - a. All setbacks, density, and other C-UB district provisions shall be met
  - b. Minimum lot and yard requirements shall be met as if lot lines existed
  - c. A site plan shall be required and shall govern the location of all site structures and improvements on final plans
14. Child or adult day care centers shall comply with all applicable state regulations and requirements.
15. Additional requirements for pawn shops:
  - a. Establishment must maintain and file a daily report, as specified by the Code of Virginia Sec. 54.1-4009, electronically with local law enforcement



- b. All of the items collected must be contained within the confines of the actual pawnshop
  - c. An approved anti-crime security system must be installed to safeguard the premises
  - d. Establishment shall not be located within 1,000 feet of a similar establishment
  - e. Establishment must be located at least 1,000 feet from churches, schools, playgrounds
  - f. Establishment cannot open for business prior to 10:00 a.m. and must close by 9:00 p.m.
16. Proprietor's residential apartment, first floor: A proprietor's apartment is a supplemental use that provides for residential living space limited to occupancy by the proprietor and proprietor's immediate family on the first floor of a commercial or business establishment. A proprietor's residential apartment may be permitted upon approval of a special use permit, provided the following:
- a. The primary commercial or business establishment meets current zoning, building and other licensing or code requirements of the City.
  - b. The proprietor's residential apartment meets all applicable building code requirements for the applicable residential use category.
  - c. Access to the proprietor's apartment from within the commercial or business first floor area is configured in such a way as to secure it from those other than the proprietor and proprietor's family.
  - d. The apartment shall not be larger than twenty-five percent (25%) of the total first floor square footage of the building.
  - e. Only one (1) proprietor's apartment shall be permitted on the first floor of any commercial or business establishment.
  - f. Additional parking and loading requirements may be established with the special use permit.
  - g. The apartment is restricted to residential use only. No commercial or business activities related to the primary commercial or business establishment shall be permitted within the proprietor's residential apartment.
  - h. A proprietor's apartment located on the first (or ground) floor level shall not have direct access to any permitted residential unit not associated with the proprietor's apartment that is located above the first (or ground) floor level, provided that the apartment may have access to an upper level where permitted by building code.
  - i. Conditions to the special use permit may be established that limit the continuation of the use of the proprietor's apartment in the event that the retail or business establishment ceases operations.
17. See Section III.N. for requirements related to short-term rental occupancy.

## *XV.* C-C, Corridor Commercial District

### A. Purpose and Intent

The C-C, Corridor Commercial District (formerly C-3) provides for large-scale retail, and other commercial uses, at a lower density than is found in zones C-N and C-UB. The C-C district emphasizes efficient and convenient automobile access and circulation for City residents, and for those traveling from other locations in the region, as well as sign and landscape regulations that improve the appearance of important City corridors. Parcels zoned C-C are found primarily along major City streets, including Memorial Boulevard, Commonwealth Boulevard, and portions of Church Street outside of the central business district.

Uses typically found in the C-C District include regional and community shopping centers, big-box development on individual lots, and automobile/vehicle sales and service establishments. Despite the large size, and parking needs, of these uses, this Ordinance encourages functional and visual improvements to Martinsville's major corridors through improved landscaping, access, and organization. Multi-family residential uses are permitted, but single family dwellings and other residential uses are not.

Significant portions of the C-C Highway Commercial District are also covered by the EC-O Entrance Corridor Overlay District. In these areas, additional review is used to ensure attractive architectural and landscape solutions to improve the look and transportation function of the City's major entrance corridors.

### B. Lot and Building Standards

Regulated by Table 15.1; page 15-2.

## Lot and Building Standards

(Table 15.1)

## C-C

### Density & Geometric Standards

*By-Right Uses*
*Special Permit Uses \**
*Residential Uses \**
*Mixed Use \**

### Minimum District Size (Acres)

District Size to Conform with Official Zoning Map

<b>Non-Residential FAR (Maximum)</b>	<b>0.5 **</b>	<b>0.5 **</b>			
<b>Lot Area (SF, Minimum)</b>	<b>15,000 sf ***</b>	<b>15,000 sf ***</b>			
<b>Lot Width (Minimum)</b>					
Interior	<b>120 ***</b>				
Corner	<b>150 ***</b>				
<b>Lot Depth (Minimum)</b>	<b>100 ***</b>				
<b>Building Height (Maximum)</b>	<b>45</b>				
<b>Front Setback (Minimum)</b>	<b>30 ***</b>				
<b>Side Setback (Minimum)</b>					
Interior, abutting ED or C district	<b>20 *</b>				
Interior, abutting R or T district	<b>30 *</b>				
Corner, abutting any district	<b>30</b>				
<b>Rear Setback (Minimum)</b>					
Abutting ED or C district	<b>20 *</b>				
Abutting R or T district	<b>25 *</b>				
<b>Maximum Lot Coverage (%)</b>	<b>85%</b>				
<b>Open Space (% , Minimum)</b>	<b>nr</b>				

P = Permitted Use

SP = By Special Use Permit

NP = Not Permitted

nr = Not Regulated

\* = See Additional Regulations

\*\* = Conditioned on Parking Regulations

\*\*\* = Modified Per Site Plan Approval

Units in Feet (' ) Unless Otherwise Noted

## C-C

### C. Uses Permitted By Right

1. Accessory uses and structures
2. Alcoholic beverage retail sales
3. Artisan craft production
4. Artist studio
5. Assisted living facilities
6. Automobile parking (as a stand-alone use)
7. Automobile repair and service
8. Automobile sales, including display lot
9. Bakery or specialty food store
10. Banks and financial services
11. Car wash
12. Catering establishment
13. Churches and places of worship
14. Coffee shop
15. Commercial pool, tennis, or recreation facility
16. Community gardens
17. Conference center or performance venue
18. Convenience store
19. Data center or call center
20. Day care, for children or adults
21. Drug store or pharmacy
22. Dry cleaning or Laundromat
23. Funeral home or mortuary
24. Gasoline sales
25. Grocery store
26. Gym or health club
27. Home occupations
28. Hospital
29. Hotel or motel
30. Library
31. Medical or dental office or laboratory
32. Micro-brewery or tap room

33. Movie theater
34. Museum or historic site
35. Nursing home
36. Personal services establishment
37. Pet grooming and boarding
38. Plant nursery or landscape sales
39. Private club, lodge, or fraternal organization
40. Professional office space
41. Public parks, playgrounds, and open space
42. Radio or television station
43. Repair services establishment
44. Research and development
45. Restaurant
46. Restaurant, fast food
47. Retail sales establishment
48. Schools, colleges and academic institutions
49. Shopping center
50. Tailoring, alterations or shoe repair
51. Urgent care center
52. Veterinary clinic
53. Vocational or trade school
54. Wholesale sales and trade
55. Hydroponic agriculture

#### **D. Uses Permitted By Special Use Permit**

1. Automobile auction establishment
2. Cemetery or mausoleum
3. Contractor or building trades workshop
4. Golf course
5. Heavy equipment sales and service
6. Heliport or helipad associated with a permitted use
7. Hydroponic agriculture
8. Lumber yard

9. Manufacturing, processing, and assembly
10. Multi-family dwelling
11. Outside storage
12. Pawn shop
13. Public buildings, infrastructure, and other facilities
14. Rail or bus transit terminal
15. Residential uses in accord with Table 15.1 herein above
16. Telecommunications equipment and towers
17. Temporary marketing offices for new residential development
18. Warehouse or self storage facility
19. Wholesale food and beverage production

#### **E. Prohibited Uses**

The specific uses which follow shall not be permitted in the C-C District:

1. Adult entertainment establishments
2. Any use, establishment or activity which in the opinion of the City Council would be injurious, offensive, or noxious by reason of odor, fumes, dust, smoke, vibration, glare, noise or other cause which may be deemed as hazardous to the health, welfare and safety of the public.
3. Prohibited uses in the ED-G and ED-I District regulations

#### **F. Additional Regulations**

1. An environmental impact statement may be required for any permitted or special permit use. All uses shall conform to federal, state and City environmental regulations and performance standards and design criteria as related to:
  - a. air pollution
  - b. fire and explosion hazards
  - c. radiation hazards
  - d. electromagnetic radiation and interference hazards
  - e. liquid, gas and solid wastes hazards
  - f. noise standards
  - g. vibration standards
  - h. illumination and glare

- i. water quality
- 2. In the evaluation of design and construction standards for any permitted or special permit use in the C-C District, the City Council, at its sole discretion, may impose other conditions and additional restrictions to that use for the purposes of ensuring the mitigation of impacts and promulgating the health, safety and general welfare of the citizens of Martinsville.
- 3. All uses shall be subject to site plan approval.
- 4. All refuse stored on-site shall be contained in completely enclosed and screened facilities.
- 5. A freestanding use shall have no more than two curb cuts for commercial entrances on any single right of way, and such curb cuts shall have a minimum distance of 100 feet between them.
- 6. Outdoor storage shall be subject to a special use permit. The location and use of outdoor storage, loading and display areas shall be limited to the designated area(s) on the approved site plan. The outdoor area devoted to storage, loading and display of goods shall be limited to a maximum of 15% of the total lot area and as otherwise designated on an approved site plan. Outdoor storage, loading and display areas in excess of 15% may be approved under special circumstances when the applicant can demonstrate need and provide expanded and enhanced screening, buffers and landscaping.
- 7. Gasoline pump islands, canopies and structural elements shall be governed by the same regulations as applied to a principal structure
- 8. Where a lot is contiguous to property located in an R- district, a landscaped buffer yard shall be provided, with landscape materials and placement subject to site plan approval. Fencing may be required in such cases with fence material and heights subject to site plan approval.
- 9. All site development activities shall comply with the Virginia Stormwater Management Regulations in effect at the time of site plan application. The applicant shall be responsible for obtaining and providing the City with all requisite state and federal permits.
- 10. Refer any City-adopted design and construction standards and policies for public infrastructure, transportation improvements, stormwater management, low impact development, and other site improvements requirements.
- 11. Child or adult day care centers shall comply with all applicable state regulations and requirements.
- 12. Additional requirements for pawn shops:
  - a. Establishment must maintain and file a daily report, as specified by the Code of Virginia Sec. 54.1-4009, electronically with local law enforcement
  - b. All of the items collected must be contained within the confines of the actual pawnshop
  - c. An approved anti-crime security system must be installed to safeguard the premises
  - d. Establishment shall not be located within 1,000 feet of a similar establishment
  - e. Establishment must be located at least 1,000 feet from churches, schools, playgrounds
  - f. Establishment cannot open for business prior to 10:00 a.m. and must close by 9:00 p.m.
- 13. See Section III.N. for requirements related to short-term rental occupancy.

## *XVI.* ED-MA, Economic Development District - Medical & Academic

### A. Purpose and Intent

The ED-MA, Economic Development Medical & Academic District is established to encourage and permit the development, location, and growth of healthcare and academic uses around the nucleus of the existing Memorial Hospital of Martinsville and Martinsville High School. This district is intended both to promote education, research, and community service, and to protect developable land in this area from incompatible uses that would threaten this mission.

In order to provide for an improved, convenient and efficient master planned learning and healthcare system for the community, this district shall be developed in general accord with the planning principles outlined in the guidelines herein.

This district promotes a broad range of health care and academic uses, as well as a supporting mix of complementary uses, with an emphasis on landscaped and screened facilities, which afford maximum protection to the economic, environmental, and aesthetic value of surrounding properties. Residential development is also permitted within master planned cluster developments, or as a part of mixed-use developments under the Traditional Neighborhood Development Overlay (TND-O) District.

The district regulations are intended to provide flexibility to the applicant when presenting plans for new uses. This Section has established criteria contained herein to permit the modification of certain requirements for individual properties on a case-by-case basis. In doing so, the ED-MA District regulations make effective use of the special use permit process. This provides the applicant with a streamlined pre-application and concept plan process that is designed to promote a clear understanding of City expectations for the final plan and plan submission.

### B. Lot and Building Standards

Regulated by Table 16.1; page 16-2.



## Lot and Building Standards

(Table 16.1)

## ED-MA

Density & Geometric Standards	By-Right Uses	Special Permit Uses *	Residential Uses *	Mixed Use *
Minimum District Size (Acres)				
District Size to Conform with Official Zoning Map				
<b>Non-Residential FAR (Maximum)</b>				
Hospital Use	nr **	nr **		
Medical Use	5.0 **	5.0 **		
Other Non-Residential Uses	1.0 **	1.0 **		
<b>Lot Area (SF, Minimum)</b>	10,000 sf ***	10,000 sf ***		
<b>Lot Width (Minimum)</b>				
Interior	100 ***	Regulations for Special Permit Uses Established by SUP Site Plan Process *	No Single Family Detached Permitted. Other Residential Uses Follow Provisions of the R-C District *	Mixed-Use Development Permitted Within TND Overlay, Subject to TND-O District Requirements *
Corner	125 ***			
<b>Lot Depth (Minimum)</b>	100 ***			
<b>Building Height (Maximum)</b>				
Residential and Lodging	75 *			
All Other Uses	90 *			
<b>Front Setback (Minimum)</b>				
w/parking in front setback	75			
w/relegated parking (side or rear)	20 ***			
Abutting R or T district	30 *			
<b>Side Setback (Minimum)</b>				
Interior, abutting ED or C district	15 *			
Interior, abutting R or T district	25 *			
Corner, abutting any district	25			
<b>Rear Setback (Minimum)</b>				
Abutting ED or C district	25 ***			
Abutting R or T district	40 ***			
<b>Maximum Lot Coverage (%)</b>	75%			
<b>Open Space (% , Minimum)</b>	nr			

P = Permitted Use

SP = By Special Use Permit

NP = Not Permitted

nr = Not Regulated

\* = See Additional Regulations

\*\* = Conditioned on Parking Regulations

\*\*\* = Modified Per Site Plan Approval

Units in Feet (') Unless Otherwise Noted

## ED-MA

### C. Uses Permitted By Right

1. Accessory uses and structures
2. Artisan craft production
3. Assisted living facilities
4. Automobile parking (as a stand-alone use)
5. Banks and financial services
6. Churches and places of worship
7. Coffee shop
8. Community gardens
9. Conference center or performance venue
10. Data center or call center, limited to healthcare industries (non-healthcare requires SUP)
11. Day care, for children or adults
12. Drug store or pharmacy
13. Funeral home or mortuary
14. Gym or health club
15. Hospital
16. Hotel or motel
17. Medical or dental office or laboratory
18. Nursing home
19. Public parks, playgrounds, and open space
20. Research and development, limited to healthcare industries (non-healthcare requires SUP)
21. Residential cluster development (limited to attached or multi-family dwellings)
22. Restaurant
23. Restaurant, fast food
24. Schools, colleges and academic institutions
25. Urgent care center
26. Vocational or trade school

#### D. Uses Permitted By Special Use Permit

1. Cemetery or mausoleum
2. Heliport or helipad associated with a permitted use
3. Manufacturing, processing, and assembly, limited to healthcare industries
4. Outside storage
5. Personal services establishment
6. Professional office space
7. Public buildings, infrastructure, and other facilities
8. Rail or bus transit terminal
9. Retail sales establishment
10. Telecommunications equipment and towers
11. Temporary marketing offices for new residential development
12. Veterinary clinic
13. Waiver of minimum district size for cluster subdivisions

#### E. Additional Regulations

1. All uses shall be subject to site plan approval
2. An environmental impact statement may be required for any permitted or special permit use. All uses shall conform to federal, state and City environmental regulations and performance standards and design criteria relating to:
  - a. air pollution
  - b. fire and explosion hazards
  - c. radiation hazards
  - d. electromagnetic radiation and interference hazards
  - e. liquid, gas and solid wastes hazards
  - f. noise standards
  - g. vibration standards
  - h. illumination and glare
  - i. water quality

In the evaluation of performance standards for any permitted or special permit use in the ED-MC District, the City Council, at its sole discretion, may impose other conditions and additional restrictions to that use for the purposes of ensuring the mitigation of impacts and promulgating the health, safety and general welfare of the citizens of Martinsville.

3. All site development activities shall comply with the Virginia Stormwater Management Regulations in effect at the time of site plan application. The applicant shall be responsible for obtaining and providing the City with all requisite state and federal permits.
4. Refer to any applicable City-adopted design and construction standards for public infrastructure, transportation, stormwater management, low impact development, and other site improvements requirements.
5. All applicable setbacks and yard requirements shall be increased by one (1) foot for each foot of building height over 35 feet.
6. For corner lots, no curb cut shall be located closer than (sixty) 60 feet to the nearest curb line extended from the intersecting public street.
7. No curb cut shall be located closer than 20 feet to a side or rear lot line, unless a common curb cut serves adjacent uses, and in no instance shall the distance between separate curb cuts serving adjacent uses be less than 60 feet.
8. A freestanding use shall have no more than two curb cuts on any single right of way, and such curb cuts shall have a minimum distance of 100 feet between them.
9. Where buildings are developed and maintained under condominium ownership or where buildings are developed with linked connections and/or common party walls there shall be no side and rear yard requirements; provided that where side and rear yards are to be incorporated into the development plan for a condominium structure, the minimum dimension of those yards shall be governed as if subdivision lot lines and yard requirements existed.
10. Outdoor storage shall be screened. The location and use of outdoor storage, loading and display areas shall be limited to the designated area(s) on the approved site plan.
11. All refuse stored on-site shall be contained in completely enclosed and screened facilities.
12. Where a lot is contiguous to property located in a residential zoning district, a landscaped buffer yard shall be provided, with landscape materials and placement subject to site plan approval. Fencing may be required in such cases with fence material and heights subject to site plan approval.
13. Where individual structures are not physically connected by common party walls, linking structures, or other architectural unit, then such structures shall be located no closer to each other than a horizontal distance derived from the ratio of one foot in horizontal distance for every one foot in building height of the taller structure.
14. Heliports and helipads are to be designed, sited and constructed in accordance with all applicable FAA regulations and development criteria and shall otherwise be located within the District so as to minimize impacts on adjacent land uses. Approach patterns shall be designated and shall ensure minimal impact on adjoining properties.
15. Heliports and helipads shall not be located closer than 200 feet to any residential district. This distance may be increased at the discretion of the Commission if it is shown that helicopter approach patterns and/or frequency of use would adversely impact the residential district(s).
16. Child or adult day care centers shall comply with all applicable state regulations and requirements.
17. See Section III.N. for requirements related to short-term rental occupancy.

## *XVII.* ED-G, Economic Development District - General

### A. Purpose and Intent

The ED-G, Economic Development General District is established to support locations for free standing establishments and planned industrial parks serving research, technology, development and training, corporate employment offices, and light manufacturing and warehousing operations under sound environmental performance standards.

The objective is for City industries to be operated in a clean and quiet manner, compatible in all respects to adjacent residential, commercial and professional districts. The regulations prohibit heavy industrial and manufacturing uses which otherwise should be properly located within the ED-I District.

This district promotes moderate intensity industrial uses, with an emphasis on landscaped and screened facilities, which afford maximum protection to the economic, environmental, and aesthetic value of surrounding properties.

### B. Lot and Building Standards

Regulated by Table 17.1; page 17-2.

## Lot and Building Standards

(Table 17.1)

ED-G

Density & Geometric Standards	By-Right Uses	Special Permit Uses *	Residential Uses *	Mixed Use *
<b>Minimum District Size (Acres)</b>	District Size to Conform with Official Zoning Map			
<b>Non-Residential FAR (Maximum)</b>	1.0 **	1.0 **		
<b>Lot Area (SF, Minimum)</b>	10,000 sf ***	10,000 sf ***		
<b>Lot Width (Minimum)</b>		Regulations for Special Permit Uses Established by SUP Site Plan Process *		
Interior	100 ***			
Corner	125 ***			
<b>Lot Depth (Minimum)</b>	100 ***			
<b>Building Height (Maximum)</b>	75		Residential Uses Not Permitted *	
<b>Front Setback (Minimum)</b>				
w/parking in front setback	75			
w/relegated parking (side or rear)	20 ***			
Abutting R or T district	30 *			
<b>Side Setback (Minimum)</b>				
Interior, abutting ED or C district	15 *			
Interior, abutting R or T district	25 *			
Corner, abutting any district	25			
<b>Rear Setback (Minimum)</b>				
Abutting ED or C district	25 ***			
Abutting R or T district	40 ***			
<b>Maximum Lot Coverage (%)</b>	75%			
<b>Open Space (% , Minimum)</b>	nr			
				Mixed-Use Permitted Within TND Overlay, Subject to TND-O District Requirements *

P = Permitted Use

SP = By Special Use Permit

NP = Not Permitted

nr = Not Regulated

\* = See Additional Regulations

\*\* = Conditioned on Parking Regulations

\*\*\* = Modified Per Site Plan Approval

Units in Feet (' ) Unless Otherwise Noted

ED-G

### **C. Uses Permitted By Right**

1. Accessory uses and structures
2. Data center or call center
3. Hydroponic agriculture
4. Manufacturing, processing, and assembly
5. Personal services establishment
6. Plant nursery or landscape sales
7. Professional office space
8. Radio or television station
9. Repair services establishment
10. Research and development
11. Retail sales of items created or warehoused on site
12. Vocational or trade school
13. Wholesale food and beverage production
14. Wholesale sales and trade

### **D. Uses Permitted By Special Use Permit**

1. Artisan craft production
2. Artist studio
3. Automobile auction establishment
4. Automobile parking (as a stand-alone use)
5. Automobile repair and service
6. Automobile sales, including display lot
7. Banks and financial services
8. Car wash
9. Coffee shop
10. Contractor or building trades workshop
11. Convenience store
12. Day care, for children or adults
13. Gasoline sales
14. Golf course

15. Gym or health club
16. Heavy equipment sales and service
17. Heliport or helipad associated with a permitted use
18. Hospital
19. Hotel or motel
20. Lumber yard
21. Medical or dental office or laboratory
22. Outside storage
23. Pet grooming and boarding
24. Printing or publishing facility
25. Rail or bus transit terminal
26. Restaurant
27. Restaurant, fast food
28. Schools, colleges and academic institutions
29. Telecommunications equipment and towers
30. Truck terminal or shipping center
31. Urgent care center
32. Veterinary clinic
33. Warehouse or self storage facility

## **E. Additional Regulations**

1. Any use, establishment or activity which in the opinion of the City Council would be injurious, offensive, or noxious by reason of odor, fumes, dust, smoke, vibration, glare, noise or other cause which may be deemed as hazardous to the health, welfare and safety of the public shall be prohibited.
2. An environmental impact statement may be required for any permitted or special permit use. All uses shall conform to federal, state and City environmental regulations and performance standards and design criteria as related to:
  - a. air pollution
  - b. fire and explosion hazards
  - c. radiation hazards
  - d. electromagnetic radiation and interference hazards
  - e. liquid, gas and solid wastes hazards
  - f. noise standards



- g. vibration standards
  - h. illumination and glare
  - i. water quality
- 3. In the evaluation of design and construction standards for any permitted or special permit use in the ED-G District, the City Council, at its sole discretion, may impose other conditions and additional restrictions to that use for the purposes of ensuring the mitigation of impacts and promulgating the health, safety and general welfare of the citizens of Martinsville.
- 4. All uses shall be subject to site plan approval.
- 5. All refuse stored on-site shall be contained in completely enclosed and screened facilities.
- 6. On a corner lot, no curb cut shall be located closer than (sixty) 60 feet to the nearest curb line extended from the intersecting public street.
- 7. No curb cut shall be located closer than 20 feet to a side or rear lot line, unless a common curb cut serves adjacent uses, and in no instance shall the distance between separate curb cuts serving adjacent uses be less than 60 feet.
- 8. A freestanding use shall have no more than two curb cuts on any single right of way, and such curb cuts shall have a minimum distance of 100 feet between them.
- 9. Outdoor storage shall be screened. The location and use of outdoor storage, loading and display areas shall be limited to the designated area(s) on the approved site plan.
- 10. Where a lot is contiguous to property located in an R- district, a landscaped buffer yard shall be provided, with landscape materials and placement subject to site plan approval. Fencing may be required in such cases with fence material and heights subject to site plan approval.
- 11. All site development activities shall comply with the Virginia Stormwater Management Regulations in effect at the time of site plan application. The applicant shall be responsible for obtaining and providing the City with all requisite state and federal permits.
- 12. Refer to any applicable City-adopted design and construction standards for public infrastructure, transportation, stormwater management, low impact development, and other site improvements requirements.
- 13. Child or adult day care centers shall comply with all applicable state regulations and requirements.

## *XVIII.* ED-I, Economic Development District - Intensive

### A. Purpose and Intent

The ED-I, Economic Development Intensive District is established to provide appropriate locations for carefully planned industrial and manufacturing uses. In order to accommodate certain economic development uses not permitted in the ED-G District (Economic Development - General), the ED-I District is primarily intended for use by medium to large manufacturing operations, heavy equipment facilities, construction and maintenance yards, fuel businesses, and other basic intensive industrial activities normally found in an urban manufacturing environment.

In concert with the City's TND-O Traditional Neighborhood Development Overlay District, mixed use development is encouraged in areas that are overlain by the TND-O District. The overlay district provides increased flexibility for the integration of residential, civic, and commercial uses within existing zoned ED-I areas that may no longer be suitable for heavy industry. However, residential development is not permitted within the ED-I District in locations outside of the designated TND-O District.

All ED-I District applications shall be thoroughly reviewed to assess the impact of project on the public health, safety, and welfare of the City and its citizens. Potentially hazardous and noxious uses shall require comprehensive environmental impact analyses and public review as required by applicable federal, state, and local regulations.

### B. Lot and Building Standards

Regulated by Table 18.1; page 18-2.

# Lot and Building Standards

(Table 18.1)

# ED-I

## Density & Geometric Standards

By-Right Uses

Special Permit Uses \*

Residential Uses \*

Mixed Use \*

## Minimum District Size (Acres)

District Size to Conform with Official Zoning Map

<b>Non-Residential FAR (Maximum)</b>	<b>1.0 **</b>	<b>1.0 **</b>		
<b>Lot Area (SF, Minimum)</b>	<b>20,000 sf ***</b>	<b>20,000 sf ***</b>		
<b>Lot Width (Minimum)</b>				
Interior	<b>100 ***</b>	* Regulations for Special Permit Uses Established by SUP Site Plan Process		
Corner	<b>125 ***</b>			
<b>Lot Depth (Minimum)</b>	<b>100 ***</b>			
<b>Building Height (Maximum)</b>	<b>75</b>			
<b>Front Setback (Minimum)</b>				
w/parking in front setback	<b>75</b>			
w/relegated parking (side or rear)	<b>20 ***</b>			
Abutting R or T district	<b>75 *</b>			
<b>Side Setback (Minimum)</b>				
Interior, abutting ED or C district	<b>15 *</b>			
Interior, abutting R or T district	<b>25 *</b>			
Corner, abutting any district	<b>25</b>			
<b>Rear Setback (Minimum)</b>				
Abutting ED or C district	<b>25 ***</b>			
Abutting R or T district	<b>40 ***</b>			
<b>Maximum Lot Coverage (%)</b>	<b>75%</b>			
<b>Open Space (% , Minimum)</b>	<b>nr</b>			

Residential Uses Not Permitted \*

Mixed-Use Permitted Within TND Overlay, Subject to TND-O District Requirements \*

**P** = Permitted Use

**SP** = By Special Use Permit

**NP** = Not Permitted

**nr** = Not Regulated

\* = See Additional Regulations

\*\* = Conditioned on Parking Regulations

\*\*\* = Modified Per Site Plan Approval

Units in Feet (') Unless Otherwise Noted

# ED-I

### C. Uses Permitted By Right

1. Accessory uses and structures
2. Artisan craft production
3. Automobile auction establishment
4. Automobile repair and service
5. Churches and places of worship
6. Contractor or building trades workshop
7. Data center or call center
8. Dry cleaning or laundry processing plant
9. Gasoline sales
10. Gym or health club
11. Heavy equipment sales and service
12. Hydroponic agriculture
13. Lumber yard
14. Manufacturing, processing, and assembly
15. Motor vehicle storage or impound (other than salvage yard)
16. Plant nursery or landscape sales
17. Printing or publishing facility
18. Public parks, playgrounds, and open space
19. Railroad yard or maintenance
20. Repair services establishment
21. Retail sales of items created or warehoused on site
22. Truck terminal or shipping center
23. Veterinary clinic
24. Vocational or trade school
25. Warehouse or self storage facility
26. Wholesale food and beverage production
27. Wholesale sales and trade

#### **D. Uses Permitted By Special Use Permit**

1. Asphalt mixing
2. Automobile sales, including display lot
3. Blast furnace
4. Bulk storage of flammable materials
5. Car wash
6. Cemetery or mausoleum
7. Coal or wood distillation facility
8. Coffee shop
9. Concrete mixing
10. Convenience store
11. Extraction of minerals, sand, gravel, or quarrying
12. Heliport or helipad associated with a permitted use
13. Hotel or motel
14. Metal foundry
15. Outside storage
16. Pawn shop
17. Professional office space
18. Public buildings, infrastructure, and other facilities
19. Radio or television station
20. Rail or bus transit terminal
21. Research and development
22. Restaurant
23. Restaurant, fast food
24. Salvage yard (including auto salvage)
25. Schools, colleges and academic institutions
26. Soap manufacture
27. Telecommunications equipment and towers

## E. Additional Regulations

1. Any use, establishment or activity which in the opinion of the City Council would be injurious, offensive, or noxious by reason of odor, fumes, dust, smoke, vibration, glare, noise or other cause which may be deemed as hazardous to the health, welfare and safety of the public shall be prohibited.
2. An environmental impact statement may be required for any permitted or special permit use. All uses shall conform to federal, state and City environmental regulations and performance standards and design criteria as related to:
  - a. air pollution
  - b. fire and explosion hazards
  - c. radiation hazards
  - d. electromagnetic radiation and interference hazards
  - e. liquid, gas and solid wastes hazards
  - f. noise standards
  - g. vibration standards
  - h. illumination and glare
  - i. water quality
3. In the evaluation of design and construction standards for any permitted or special permit use in the ED-I District, the City Council, at its sole discretion, may impose other conditions and additional restrictions to that use for the purposes of ensuring the mitigation of impacts and promulgating the health, safety and general welfare of the citizens of Martinsville.
4. All uses shall be subject to site plan approval.
5. All refuse stored on-site shall be contained in completely enclosed and screened facilities.
6. On a corner lot, no curb cut shall be located closer than (sixty) 60 feet to the nearest curb line extended from the intersecting public street.
7. No curb cut shall be located closer than 20 feet to a side or rear lot line, unless a common curb cut serves adjacent uses, and in no instance shall the distance between separate curb cuts serving adjacent uses be less than 60 feet.
8. A freestanding use shall have no more than two curb cuts on any single right of way, and such curb cuts shall have a minimum distance of 100 feet between them.
9. Outdoor storage shall be screened. The location and use of outdoor storage, loading and display areas shall be limited to the designated area(s) on the approved site plan.
10. Where a lot is contiguous to property located in an R- or district, a landscaped buffer yard shall be provided, with landscape materials and placement subject to site plan approval. Fencing may be required in such cases with fence material and heights subject to site plan approval.
11. Adult entertainment establishments may be permitted only by special use permit. Such establishments shall be deemed to include the following: (a) adult bookstores, (b) adult motion

picture or video theaters, (c) adult cabarets, (d) drug paraphernalia stores, and (e) establishments for palm readers and mystics. The following additional regulations shall apply to adult entertainment establishments:

- a. No adult entertainment establishment shall be located within: (1) one mile of any other adult entertainment establishment, (2) one mile of any residential district, (3) one mile of any church or place of worship, (4) one mile of any religious apparel or book store, (5) one mile of any school or education facility, including playgrounds, (6) one mile of any public playground, park, swimming pool or library. Distance between uses shall be measured from the nearest property line of any adult entertainment establishment and the nearest property line of any use cited in the paragraph hereinabove.
  - b. In addition to the sign regulations of this ordinance, sign messages for an adult entertainment establishment shall be limited to a written description of material or services available on the premises and shall not provide any graphic or pictorial depiction of the material or services available on the premises.
  - c. Signage and messages which are visible or intended to be visible from outside the property (such as those appearing on or within doors or windows) shall not display materials, items, publications, pictures, films or printed material available on the premises; or pictures, films or live presentation of persons performing or services offered on the premises.
  - d. Should any adult entertainment establishment listed above cease or discontinue operation for a period of ninety or more consecutive days, it may not resume, nor be replaced by any other adult entertainment establishment unless it complies with all the requirements set forth hereinabove.
  - e. Must meet and provide the City with documentation as having met all legal requirements imposed by state and federal law.
12. All site development activities shall comply with the Virginia Stormwater Management Regulations in effect at the time of site plan application. The applicant shall be responsible for obtaining and providing the City with all requisite state and federal permits.
13. Refer to any applicable City-adopted design and construction standards for public infrastructure, transportation, stormwater management, low impact development, and other site improvements requirements.
14. Additional requirements for pawn shops:
- a. Establishment must maintain and file a daily report, as specified by the Code of Virginia Sec. 54.1-4009, electronically with local law enforcement
  - b. All of the items collected must be contained within the confines of the actual pawnshop
  - c. An approved anti-crime security system must be installed to safeguard the premises
  - d. Establishment shall not be located within 1,000 feet of a similar establishment
  - e. Establishment must be located at least 1,000 feet from churches, schools, playgrounds
  - f. Establishment cannot open for business prior to 10:00 a.m. and must close by 9:00 p.m.

## *XIX.* TND-O, Traditional Neighborhood Development Overlay District

### A. Purpose and Intent

The TND Overlay District (TND-O) provides the regulatory framework upon which the City may consider by-right applications for Traditional Neighborhood Developments (TND) or other mixed-use forms of land use in designated areas. This includes those areas of the City designated as Urban Development Areas. The overlay approach encourages Applicants to utilize the TND-O District as an approach to developing a more flexible mix of uses at more compact densities than would be allowed in the underlying zoning districts. The principal aim of any TND-O District project is to expand and enhance the City's urban areas in order to best serve existing and future Martinsville residents and businesses.

The TND-O District should be employed when a more creative approach is deemed to best serve the objectives of the Comprehensive Plan and, more particularly, the neighborhood in which a project is proposed. The TND-O District is intended to better define the mix, scale, character, form and intensity of any given new development or redevelopment proposal than otherwise achievable under conventional zoning regulations. The district encourages design flexibility and places an emphasis on the physical form of the built environment. While single use projects may be permitted on smaller parcels, the principal TND goal is to create a mix of uses with flexible approaches to organizing building, streets, density and complementary civic spaces.

Areas where the TND-O District may be applied are established by the Official Zoning Map. The specific characteristics of an individual TND-O project shall be established by a Code of Development established by the applicant and approved by the City. In order to respect the Uptown and land use patterns along major entrance corridors, the City's Comprehensive Plan may recognize distinct planning sub-areas and corridors appropriate for TND-O development.

Individual buildings should be defined by varying scale and architectural styles. Except where constrained by geographical location, parcel size, terrain features, and environmental conditions, each TND-O project shall have a mix of uses. Vertically integrated uses (e.g. the placement of residential or other uses above office and retail uses) are encouraged in the mixed-use components of a TND project.

### B. Development Guidelines

The Application Plan for a TND-O project shall demonstrate a strong physical interrelationship to contiguous parcels and neighborhoods, individual buildings, civic spaces, infrastructure, and landscaping that creates a sense of place and community. By-right land use applications in the TND-O District shall be evaluated on the basis of how well the project demonstrates compatibility with the purpose and intent of this section as well as to the following principles:

1. **Appropriate Location and Densities:** Establish viable areas for residential and commercial land uses in the City at a compact, but pedestrian, scale, with appropriate urban densities, that are located either within or contiguous to existing developed.



2. **Mix of Uses:** Establish a blended mix of residential and non-residential land uses that reflect Martinsville's comprehensive planning objectives, enhance the quality of life of those who live there, and best serve the demands of future Martinsville residents.
3. **Variety of Housing:** Create a variety of housing types to meet the range of projected family income distributions of both existing residents and future residential growth.
4. **Lot Types and Geometry:** Encourage better spatial organization through the reduction of front and side yard building setbacks and smaller lot sizes.
5. **Pedestrian and Vehicle Compatibility:** Incorporate a network of pedestrian-friendly road and street designs for projects where new or upgraded streets are to be introduced.
6. **Design Standards TND Streets:** Reduce subdivision street widths and provide contemporary standards for street landscaping, pedestrian improvements, and pavement design.
7. **Neighborhood Connectivity:** Establish interconnectivity between streets and pedestrian networks within the TND project.
8. **Local and Regional Transportation Connectivity:** Promote the interconnection of new local streets with existing local streets and the City's existing collectors and thoroughfares.
9. **Environmental Preservation:** Ensure the preservation of Martinsville's sensitive environmental areas and open space in conjunction with the TND planning process.
10. **Adequate Public Infrastructure:** Demonstrate (a) the availability and adequacy of public water and sewer systems and other requisite public infrastructure, or (b) the ability to concurrently provide for these systems and infrastructure.
11. **Phasing of Development:** Plan for the phasing of TND-O development within the UDAs that is consistent with the City and Region's anticipated population and employment growth as well as public facilities and infrastructure capacity.

### C. District Size

1. The TND-O District shall be established by and depicted on the Official Zoning Map.
2. There shall be no minimum or maximum size for a TND-O District project.
3. The proposed size and configuration of a TND-O District development area to be located within an existing TND-O District shall be described by a current boundary plat prepared by the Applicant. The plat shall establish the metes and bounds and acreage.
4. Requests by an Applicant for modification to the geographical expansion of a previously approved TND-O District project within a TND-O District constitute a major change and shall require a new application.

#### D. Permitted Uses

1. The land use permitted within a TND-O project shall be established by the Code of Development and Application Plan for the project. The Applicant shall have the option to propose any by-right or special permit land use contained in this Ordinance.
2. Any subsequent proposed use that is not specifically included in the approved Code of Development may be considered subject to a formal amendment to the Code of Development.
3. The City, at its sole discretion, may approve, disapprove, or modify any proposed uses and, further, may establish certain prohibited or restricted uses as a condition of approval of the Code of Development.

#### E. Lot Development Standards and Mix of Uses

1. Subject to project size and location, a mix of land uses and lot types is recommended for TND-O projects. The Applicant shall have the flexibility to propose a varied mix of uses, and lot types. Prior to site plan and plat approval, these shall be established by the Application Plan and Code of Development.
2. Lot development standards shall establish yard and setback requirements, building heights, lot types and lot area, building frontage ratios (building width/lot width), lot coverage ratios, development density for individual land uses, and mix of land uses by land use category.

#### F. Development Density

1. The Code of Development for any TND-O District project shall establish both minimum and maximum development densities for initial and future phases of project development. Proposed densities should be consistent with any minimum or maximum densities provided by the City's Comprehensive Plan, or other applicable planning documents.
2. Recommended Minimum Density: Proposed developments in the TND Overlay should have an average density for residential and non-residential uses that exceeds the density of development that would be allowed, or that would be likely, under the underlying zoning district. Development densities should be considered for net developable area, and measured in units per acre for residential uses and floor area ratio for non-residential uses.

	<b>R-E</b>	<b>R-N</b>	<b>R-C</b>	<b>R-T</b>	<b>C-N</b>
Recommended Minimum Residential Density	n/a	6 units/ac.	8 units/ac.	8 units/ac.	10 units/ac.
Recommended Minimum Non-Residential Density	n/a	0.25 FAR	0.25 FAR	0.5 FAR	0.5 FAR

	<b>C-UB</b>	<b>C-C</b>	<b>ED-MA</b>	<b>ED-G</b>	<b>ED-I</b>
Recommended Minimum Residential Density	12 units/ac.	8 units/ac.	10 units/ac.	10 units/ac.	10 units/ac.
Recommended Minimum Non-Residential Density	2.0 FAR	0.5 FAR	0.5 FAR	0.5 FAR	0.5 FAR

3. Recommended Maximum Density: Proposals within the TND Overlay should present a high density and high quality mixed use development, but should remain generally in scale with the City's Comprehensive Plan recommendations for future growth, and should not exceed the capacity of the City's infrastructure to support such growth. The following maximum density recommendations for TND-O projects are therefore established. Development densities should be considered for net developable area, and measured in units per acre for residential uses and floor area ratio for non-residential uses.

	<b>R-E</b>	<b>R-N</b>	<b>R-C</b>	<b>R-T</b>	<b>C-N</b>
Recommended Maximum Residential Density	n/a	12 units/ac.	16 units/ac.	16 units/ac.	20 units/ac.
Recommended Maximum Non-Residential Density	n/a	1.0 FAR	1.0 FAR	1.5 FAR	1.5 FAR

	<b>C-UB</b>	<b>C-C</b>	<b>ED-MA</b>	<b>ED-G</b>	<b>ED-I</b>
Recommended Maximum Residential Density	36 units/ac.	20 units/ac.	24 units/ac.	24 units/ac.	24 units/ac.
Recommended Maximum Non-Residential Density	6.0 FAR	2.0 FAR	4.0 FAR	3.0 FAR	3.0 FAR

4. Residential Density: The total number of residential dwelling units permitted in a TND-O District shall be based on the residential density for each dwelling type multiplied by allocation of that use to the net developable area of the project. The net developable area is defined as the gross area of the site less the area of the following land characteristics: (a) wetlands and water features, (b) 100-year floodplain, (c) terrain with slopes thirty (30) percent or greater, and (d) existing developed land uses and (e) areas of other remaining active land use or permanent infrastructure that would be restricted to development (e.g. transmission line, sewer pump station, etc.). The Application Plan shall provide exhibits and calculations for the net developable area of the TND-O project.

*(For example, if 20% of a hypothetical 50 net acres of a proposed TND-O project is to be allocated to townhouse development with a minimum density of 8 DU/AC and a maximum density of 12 DU/AC, the range in allowable townhouse density would be calculated as follows: Maximum density: 20% X 50 net acres X 12 DU/AC = 120 townhouse dwelling units. Minimum density: 20% X 50 net acres X 8 DU/AC = 80 townhouse dwelling units.*

5. Non-Residential Density: The total gross floor area (GFA) of non-residential uses permitted in a TND-O District shall be based on the floor area ratio (FAR) for each non-residential use multiplied by allocation of that use to the net developable area of the project. The net developable area is defined as the gross area of the site less the area of the following land characteristics: (a) wetlands and water features, (b) 100-year floodplain, (c) terrain with slopes thirty (30) percent or greater, and (d) existing developed land uses and (e) areas of other remaining active land use or permanent infrastructure that would be restricted to development (e.g. transmission line, sewer pump station, etc.). The Code of Development shall provide exhibits and calculations for the net land area of the TND-O project.

*(For example, if 20% of a hypothetical 50 net acres of a proposed TND-O project is to be allocated to commercial retail development with a minimum floor area ratio of 0.50 FAR and a maximum floor area ratio of 2.0 FAR, the range in allowable commercial retail density would be calculated as follows: Maximum density:  $20\% \times 50 \text{ net acres} \times 2.0 \text{ FAR} \times 43,560 \text{ SF/AC} = 817,200 \text{ SF GFA}$ . Minimum density:  $20\% \times 50 \text{ net acres} \times 0.5 \text{ FAR} \times 43,560 \text{ SF/AC} = 217,800 \text{ SF GFA}$ .)*

## G. Application Plan and Code of Development

The review and approval of an Application Plan and its corresponding Code of Development shall be guided by the principles of the City's adopted Comprehensive Plan, and by the principles outlined in this section.

1. TND Application Plan: The Application Plan represents a master development plan that establishes the uses, size, location, and configuration for the TND-O District project and other internal planning areas (parks, open space, dedicated areas, etc.). It provides preliminary design detail for the project's transportation network, land use layout, and other key components of development of the property, including but not limited to the requirements for a concept plan, as outlined in Section IV, Site Development Plan Requirements. The Application Plan supplants the requirement for a concept plan. Upon approval of the Application Plan, a final plat and site plan shall be required for each individual project or phase to be developed within the TND-O District.
  - a. Existing conditions plan depicting existing land uses, existing road and utilities, dedicated rights of ways and easements, historic and cultural features, tree coverage, and sensitive environmental areas of the property, including 100-year floodplain, wetlands, slopes > 30%, unbuildable areas, and other features as may be required by the Zoning Administrator
  - b. Certified boundary plat, deed description, tax map reference and underlying zoning district designation of the property (or properties) subject to the TND-O District zoning application, zoning district designations and ownership of adjoining properties, and topographic mapping (minimum 1"= 50' horizontal scale and 2' contour intervals, or at a scale and interval as otherwise approved by the Zoning Administrator)
  - c. Graphic plan exhibit depicting any neighborhoods or sub-areas of the proposed development; to include the size and boundary of each, where applicable. (to be prepared at a minimum 1"=50' horizontal scale or at a scale as otherwise approved by the Zoning Administrator)
  - d. Graphic plan depicting the proposed location, size and amenities to be provided in public and private open spaces, buffer areas, public parks, environmental preservation areas, and recreation areas

- e. Graphic plan exhibit depicting the projected development phasing plan, if development is to be constructed in more than one phase
  - f. Concept plan depicting the general location of planned mix of uses and lot types for uses (to be prepared at a minimum 1"=50' horizontal scale or at a scale as otherwise approved by the Zoning Administrator)
- 2. Code of Development: A narrative report and graphic exhibits to supplement the Application Plan. The code of development establishes the project's governing land use regulations, development criteria, and guidelines, to address the following:
  - a. A statement of compatibility of the proposed project with the City's TND-O District and Comprehensive Plan land use policies
  - b. Lot types and lot development standards, to incorporate standards for proposed individual land uses and lot types
  - c. Table of proposed by-right land uses (and conditions related thereto) and specific land use exclusions applicable to use
  - d. Graphic representation of proposed generalized building forms, types and densities
  - e. Residential lot mix, to address, where applicable, proposed mix of residential lot types within the project, to include documentation for proposed lot variations and special conditions
  - f. Non-residential lot mix, to address, where applicable, proposed of commercial, institutional, and other non-residential lot types within the project
  - g. Statement of minimum and maximum density and corresponding land use yield for each proposed use
  - h. A signage plan which establishes a uniform sign theme with graphic representation of the design character, style, number, size, height, and number of signs to be permitted with the project. Signs shall share a common style, as to size, shape, and material. Where signs otherwise vary in requirements with the existing City sign ordinance, the Applicant shall provide justification for the proposed variation. Upon approval of the Application Plan and Code of Development, the signage plan shall regulate all signs within the TND-O District in lieu of the City's sign ordinance
  - i. Projection of planned project's infrastructure demands on public water, sewer and other facilities and infrastructure, and an assessment of availability and adequacy of existing public infrastructure and facilities
- 3. Street Classification Plan: For any TND-O District project that proposes to construct new streets (public or private), a regulating street classification plan shall graphically address and depict the street system, street types, and streetscape design criteria for the types of vehicular and pedestrian access improvements within the project:
  - a. Street master plan for the alignment and classification of the project's street system, identifying interior and frontage streets, and including designation of street types, block lengths and geometry, alley locations, and pedestrian improvements within each project
  - b. Graphic standards to illustrate plan and street cross sectional views, including right of way, pavement width, sidewalk location, intersectional design, and related easement specifications, for individual streets types (including alleys and pedestrian improvements)

- c. Design guidelines for public hardscape, landscaping, street lighting, and placement of utility, storm drainage, and related infrastructure, including easement requirements and regulations
- 4. Building Form and Landscape Design Guidelines: Documentation and graphics to describe the proposed characteristics of building design and landscape architectural improvements for the TND-O District project:
  - a. Graphic representation of proposed architectural themes
  - b. Building form and styles, to address building scale, architectural proportions, and heights for uses within the project
  - c. Landscape design guidelines to depict proposed landscape treatment of streets, neighborhoods, civic spaces, open areas, parking areas, and other activity centers within the project
- 5. Schematic Infrastructure Plans: Schematic plans shall be prepared of sufficient alignment and design detail to demonstrate the feasibility and functionality of the project to the satisfaction of the City to address the following:
  - a. Storm drainage, stormwater management facilities, and best management practices
  - b. Sanitary sewer
  - c. Domestic water
  - d. Site grading (proposed finished grades at minimum 2' contour intervals and 1" = 50' horizontal scale, or at a scale and interval as approved by the Zoning Administrator)
  - e. Easement specifications and requirements for each public utility and facility, to include coordination requirements and agreements that may be needed by and between utility providers and the City
- 6. Traffic Impact Analysis:
  - a. The Zoning Administrator shall determine whether or not the subject TND-O District project shall require a traffic impact study
  - b. If a 527 (or similar) traffic impact analysis is required by VDOT regulations, the Applicant shall prepare and submit a Pre-Scope of Work Meeting Form to the City on or before the date of formal submission of the zoning district amendment application. The Pre-Scope form shall be processed, reviewed by and between the City, VDOT and the Applicant in accord with adopted regulations and procedures
  - c. If a 527 Traffic Impact Analysis is not required by VDOT regulations, the Zoning Administrator may require an abbreviated traffic study. The Applicant shall meet with the Zoning Administrator to determine the scope for a traffic analysis for the TND project. The traffic analysis shall be submitted with the zoning amendment application. Study requirements may include the following:
    - (1) Existing traffic counts (AM and PM peak hour) at intersections to be identified by the City
    - (2) Trip generation estimates for the planned land uses within the proposed development, employing ITE methodologies
    - (3) Trip distribution and assignments to the existing road network of traffic projected for the development at full-buildout

- (4) Estimates of background traffic growth on impacted streets and highways
- (5) Analysis of future conditions, to include level of service calculations for impacted intersections
- (6) Signal warrants analysis
- (7) Statement of recommended transportation improvements

#### 7. Additional Application Requirements and Agreements

- a. The Applicant shall identify and establish standards for TND utility and infrastructure design and easement requirements. The Applicant shall also identify and establish procedures to pursue any required modifications of existing City zoning, subdivision, and construction design standards, as applicable to implement the proposed project
- b. The Applicant shall establish agreements for public ownership, management, and maintenance of properties within the project to be dedicated to public use, including parks, civic areas, open space, stormwater management facilities, and recreational facilities, where applicable, and establish rules for common property ownership and maintenance, if applicable
- c. The Applicant, in conjunction with the City, shall establish design criteria and use conditions for each land use subject to special use permit approval
- d. The Applicant shall provide written request and adequate documentation in support of any amendment, waiver or modification associated with the TND Application Plan
- e. If all or any portion of the property is to have land or improvements that are to be dedicated to a property owner(s)' association, the Applicant shall identify the property or improvements subject to dedication and shall submit draft articles of incorporation, by laws, and related operating documents for City review

### H. Project Review Process

1. **Pre-Application Meeting:** The Applicant shall schedule a meeting with the Zoning Administrator for an introductory work session to discuss the key elements and impacts of the proposed project. The Zoning Administrator and other Plan Review Committee representatives shall provide guidance on (a) application requirements (see Application Plan check-list), (b) timeframe for processing of the Application Plan and Code of Development, (c) Comprehensive Plan considerations, (d) identification issues related to public infrastructure and facilities, and (e) other matters as may be uniquely related to the Applicant's property. The Applicant and Zoning Administrator shall review the Application Plan checklist requirements and determine the specific items to be included with the subsequent formal Application Plan.

At this meeting, the Applicant shall present a sketch plan that depicts the following: (a) general boundary and location of property subject to rezoning application, (b) land area to be contained within the TND-O District, (c) conceptual plan for the project, (d) planned mix of land uses and densities, and (e) general approach for the provision of adequate transportation, infrastructure and community facilities.

2. **TND Application Staff Review:** Upon completion of the Pre-Application Meeting, the Application Plan and Code of Development shall be prepared, and the Applicant shall schedule a meeting with the Zoning Administrator to submit and initially review the contents for completeness. Within five

(5) working days of the completion of the meeting, the Zoning Administrator shall notify the Applicant in writing if the application package meets the City's expectations for completeness.

If the Application Plan package does not meet expectations, the Zoning Administrator shall provide written notification to the Applicant of the additional requirements necessary to establish a complete application. Once an application has been deemed a formal "complete application" by the Zoning Administrator, the application package shall be distributed for formal review in accord with City policy. An incomplete application will not be reviewed.

3. **TND-O Project Review Committee Meeting:** The Zoning Administrator shall notify the Applicant upon completion by City staff and relevant agencies of the first review of the Application Plan and Code of Development. Written comments shall be provided to the Applicant at the first staff review meeting. The Applicant shall revise and resubmit materials as necessary to satisfy City comments. If required, a second staff review meeting shall be conducted.
4. **Planning Commission Work Session:** A work session with the Planning Commission may be requested by either the Applicant or the Zoning Administrator at any time subsequent to Plan Review Committee meeting.
5. **Planning Commission Public Meeting:** One or more public meeting may be conducted by the Planning Commission to review and take formal action on the Applicant's project.
6. **Public notifications and work sessions:** The City may determine it is in the public interest to schedule a work session or community meeting at any time during the application process.
7. **The requirements of the TND-O Application Plan shall constitute the requirements of a Preliminary Subdivision Plan under the requirements of the Subdivision Ordinance.**
8. **The approval of the TND-O project does not constitute the approval of a Final Subdivision Plat or Public Improvements Plans. Refer to the Subdivision Ordinance for the subject requirements.**
9. **Changes and modifications to an approved Application Plan and Code of Development:** Any subsequent changes and modifications, the Code of Development, or other elements related to the original conditions for approval of the TND-O District project shall be submitted by the Applicant to the Zoning Administrator. The Zoning Administrator shall determine whether the requested change is a major or minor change. Major changes shall require approval by the Planning Commission. Minor changes shall require approval by the Zoning Administrator, who, at his/her discretion, may obtain recommendations from the Planning Commission. The City, at its discretion, may establish policies for major and minor changes.

## **I. Modifications to Codes and Ordinances**

1. The Applicant shall clearly identify and document all waivers, variances and modifications, if applicable, to existing City codes, ordinances, and development standards that may be required to implement the proposed Application Plan and Code of Development.
2. Documentation to be submitted with Application Plan or Code of Development shall (a) address the justification for each requested waiver, modification, or development standard, and (b) recommend alternative substitute proposals, including design and construction standards, where applicable. Graphic exhibits shall clearly depict areas and locations where the waiver, variance, or modifications impacts the proposed project.



3. The Planning Commission, upon its consideration of the recommendation of the Zoning Administrator, may, at its sole discretion, act to approve, modify, or deny each requested waiver, variance, or modification.
4. No approval or modification shall be granted by the Planning Commission for any waiver, variance, or modification in the absence of an adequate and sufficient substitute, including design and construction details and standards, where applicable. Where a waiver, variance, or modification is approved by the Planning Commission, the accepted substitute shall become a binding condition of the Application Plan approval.
5. The City recognizes an approved TND Application Plan as having fulfilled its requirements for a preliminary subdivision plan or preliminary site plan. Upon such recognition, the Applicant may proceed with the preparation of final plats and plans in accord with the approved Application Plan.
6. Appeals to decisions of the Planning Commission related to this chapter may be made to the City Council, provided that such appeal is filed in writing within thirty (30) calendar days of such decision.

## XX. EC-O, Entrance Corridor Overlay District

### A. Purpose and Intent

The purpose of establishing the Entrance Corridor Overlay District (EC-O) is to protect the aesthetic and visual character of land adjacent to major transportation corridors, and to promote their orderly development or redevelopment. This section uses the enabling authority of Virginia Code 15.2-2306 to establishing design review requirements, processes, and regulations for property adjacent to designated tourism routes and entrance corridors.

The EC-O District regulations shall be applied as an overlay zone to those designated entrance corridors herein below referenced in sub-section B and for which a Corridor Master Plan has been adopted. The major objectives of the EC-O District are to implement the City's corridor planning goals in order to:

1. Encourage and enhance the quality of architectural and site development along the City's major existing streets and highway corridors.
2. Promote public safety, reinforce neighborhood identities, and protect and enhance property values.
3. Enhance the appearance and natural environment of the entrance corridors to make them more inviting to tourists, visitors, and the general public.
4. Promote a mix of land uses with adequate buffering, screening, and landscaping to help reduce the visual impacts of development in areas contiguous to low intensity neighborhoods.
5. Encourage well-planned development that employs consistent and unifying site design themes, that provide quality site amenities, and that emphasize coordinated lighting, pedestrian improvements, landscaping, and architectural improvements.
6. Improve site development coordination by and between individual properties along the corridor, recognizing difficult existing terrain features, pedestrian and vehicular access requirements, and parking and loading issues.
7. Encourage internal transportation improvements that coordinate establish inter-parcel connectivity and parking improvements among adjacent land uses.
8. Minimize intersections and individual site access points along these corridors.
9. Coordinate private development activities with the individual right-of-way streetscape and gateway master plans for the City's entrance corridors.

The Entrance Corridor Overlay regulations are intended to supplement the regulations of underlying zoning districts and to provide for compatible development along the identified corridors. The general guidelines found in this Section shall be supplemented by more specific guidelines and regulations contained in individual Corridor Master Plans. The Planning Commission shall evaluate all proposed development activities within the EC-O District, which will include a review of the location, character and appearance of planned new and redevelopment activities.

## B. Designated Entrance Corridors

The City's Entrance Corridor Overlay (EC-O) District is comprised of a series of individual corridors along Martinsville's major roads and entrance gateways. The EC-O corridors shall be depicted on the City's Official Zoning Map.

Any property immediately adjacent to the right-of-way of a designated corridor shall be subject to the provisions of this section, as well as any property with direct vehicular access to a designated corridor.

Corridor boundaries may be further delineated on a separate Corridor Master Plan for an individual EC-O corridor. The following streets and highways represent the designated EC-O corridors that comprise the City's EC-O District.

1. **Commonwealth Boulevard** – from the City line to Chatham Road
2. **Liberty Street** – from the City line to Franklin Street
3. **East Church Street** – from Clay Street to city line
4. **Spruce Street** – from Brookdale to East Church Street
5. **Starling Avenue** – from South Memorial Boulevard to East Church Street
6. **Memorial Boulevard** – entire length of boulevard
7. **West Church Street / West Market Street** – from Memorial Boulevard to Commonwealth Boulevard

## C. Corridor Master Plans

In addition to the general regulations contained in this section, individual Corridor Master Plans shall be established for each EC-O corridor. These Master Plans will make a unique study of each corridor, its existing conditions, place within the overall function of the City, and its future development obstacles and potential. Individual Corridor Master Plans shall establish specific design standards and guidelines tailored to the needs of the individual corridor. Such specific standards and guidelines will guide the process of development approval by the Planning Commission.

Each Corridor Master Plan will consider and may recommend specific guidelines for:

1. Existing trees, vegetation, and natural features
2. Buffers and screening
3. Setbacks, height restrictions, and other geometric standards
4. Access and circulation patterns, both vehicular and pedestrian
5. Other general development guidelines
6. Landscaping standards
7. Signage guidelines for commercial uses

#### D. Qualifying Development Activities

1. Review required: All proposed development activities located within a designated EC-O corridor shall be reviewed and approved by the Planning Commission. Any subsequent changes to an existing or future development shall also receive such approval before proceeding. If a portion of the property will not be visible from the designated street or highway once the project is completed, the Planning Commission may waive the requirements of this section for that portion.
2. Development activity permitted within the EC-O District: There shall be no alteration of the existing condition of the lands, uses, or structures within an EC-O corridor from the date of enactment of this section henceforth, except as provided for by this section.
3. Development activity prohibited within the EC-O District: These regulations are in addition to the permitted uses and requirements for the appropriate underlying zoning district as contained in this ordinance. Uses prohibited in the underlying zoning district are also prohibited in the EC-O District.

#### E. Tree Protection

1. Tree protection standards for new and redevelopment activities shall be established by individual Corridor Master Plans for each EC-O corridor. Development of land for different uses and intensity of uses may necessitate the removal of trees to accommodate roads, parking, buildings, and facilities. It is the intent of this section that every effort be made through the design, layout, and construction of development projects to incorporate and preserve as many trees as possible.
2. A survey of all preservable trees should be made in consultation with an experienced arborist, landscape architect, or the City's Tree Board. The requirement for a tree survey may be waived by the Zoning Administrator as necessary.
3. As a condition of approval under this section, the applicant may be required as a condition of site plan approval to plant replacement trees for trees designated for removal on the applicant's plan. In requiring replacement trees, the following shall be considered:
  - a. The intended use of the property
  - b. The existing or pre-development tree coverage sizes and types
  - c. The number, size, type, and location of natural trees proposed for preservation
  - d. The grading, road, building, parking, and drainage requirements

#### F. Minimum Visual Buffer and Screening

1. Buffer design requirements for new and redevelopment activities shall be established by individual Corridor Master Plans. Upon adoption of the Corridor Master Plan, individual site plans for development along the corridor shall provide for (a) a minimum visual buffer from the road and (b) screening of certain features from adjacent properties. The buffer yard for a property shall be located between the street right-of-way line and proposed structures and on-site parking.

2. For all City entrance corridors, manufacturing, commercial and mixed-use projects within an EC-O corridor, heating and air conditioning units, ventilation units, mechanical equipment, loading dock and service areas, trash containers, and security fencing (e.g., chain link fences) should be located out of view from the adjacent property or screened from view at the property line by an opaque fence, wall, or hedge of sufficient height to fully obscure view of the site feature. Screening devices shall be compatible with the design of the buildings and surrounding natural vegetation, and may consist of appropriate walls, plantings, or fencing.
3. For all City entrance corridors, surface runoff structures, stormwater management facilities, permanent erosion control measures, or other drainage infrastructure shall be designed to fit into the natural topography to the greatest extent practicable as well as to limit direct views from the corridor while minimizing the need for screening or to complement buffer yard areas.
4. Exemptions or modifications from EC-O corridor buffer and screening requirements provisions may be granted by the Planning Commission if it can be sufficiently demonstrated that: (a) such buffer or screen will have a negative visual effect upon an existing or proposed situation or that through the preservation of an existing stand of trees or other unique natural vegetative resource, particular effort on the part of a developer in protecting the existing natural environment warrants the relaxation of buffer requirements, (b) the proposed development, which by virtue of the characteristics of its structures indicates innovation of design that represents a focal point and establishes a particular identifying element for the City, or (c) the proposed development exhibits innovative or unique uses of site landscaping, or which combines in the primary use of the site with civic, recreational, pedestrian, bicycle, or other spaces intended for public use.

#### **G. Yard, Height, Geometric Standards and Guidelines**

1. Yard, height and other geometric design requirements for new and redevelopment activities shall be established by individual Corridor Master Plans. These requirements may exceed the requirements of the underlying zoning district.
2. Upon adoption of a Corridor Master Plan for a designated EC-O corridor, individual site plans for development along the corridor shall adhere to the yard, height, and geometric requirements of the Plan. In the absence of these requirements from the master plan, the underlying zoning district requirements shall govern.
3. For all City entrance corridors, the required minimum side and rear yards for any lot or parcel within the EC-O corridor may be reduced on a case-by-case basis by the Planning Commission subject to the retention of natural vegetation or the provision of addition landscaping or screening.

#### **H. Access and Internal Circulation Guidelines**

1. The intent of this section is to promote new development and redevelopment that will:
  - (a) maximize the functional capacity and maintain the level of service of highways within EC-O corridors
  - (b) minimize the number of access points from individual properties to these streets and highways
  - (c) promote the sharing of access and the ability to travel between adjacent sites and uses

(d) provide pedestrian circulation networks between residential, commercial and other areas

(e) enhance safety and convenience for land uses within the EC-O corridors

The means of access control provided shall be that which effectively minimizes creation of both new intersections and new individual site access locations along the corridors and best preserves the highway traffic capacity.

2. For all City entrance corridors, access and internal circulation design requirements for new and redevelopment activities shall be established by the City for each designated entrance corridor. Upon adoption of the Corridor Master Plan for the designated EC-O corridor, individual site plans for development along the corridor shall include an access and circulation plan consistent with Master Plan goals.
3. For all City entrance corridors, access to a single parcel or lot: Any parcel or lot having frontage along a street or highway within an EC-O corridor shall be permitted one direct access point to said street or highway, unless an access and circulation plan is submitted and approved by the Planning Commission for more than one access point.
4. For all City entrance corridors, access for two (2) or more parcels or lots under singular ownership and use: If two or more parcels are placed under one common ownership and/or control for a single use, such assembly shall be permitted only one direct access to a street or highway within the EC-O corridor, unless an access and circulation plan that demonstrates the requirements for an additional access is submitted to, and approved by the Planning Commission.
5. Shared or combined access for adjacent parcels or lots under different ownership. The Corridor Master Plans shall identify opportunities for access and circulation coordination between adjacent parcels and lots. Prior to submission of a site plan, the applicant shall coordinate with adjacent property owners to promote the use of shared entrances with those entrances established or likely to be required on adjacent sites to minimize curb cuts or increasing spacing between curb cuts.
6. Access and circulation plan. An access and circulation plan shall be submitted and approved prior to site plan approval for those lots or parcels proposing more than one (1) access point to an arterial highway within an EC-O corridor. A sufficient explanation of why more than one access point is needed shall accompany the access plan. Such access plan shall be drawn to scale, including dimensions and distances, and clearly delineate the traffic circulation system and the pedestrian circulation system as coordinated with adjacent properties including the location and width of all streets, driveways, access aisles, entrance to parking areas, walkways and bicycle paths.
7. If required by the Zoning Administrator, a traffic impact analysis shall be submitted with the site plan.

## I. General Development Guidelines

1. The overall goal for development is to encourage an attractive and compatible relationship of site improvements and architecture to properties within the designated EC-O corridors. Guidelines and development standards are not intended to stifle, but to promote innovative architecture or creative development practices, while minimizing incompatible and adverse visual impacts from the street or highway.
2. Design guidelines for new and redevelopment activities may be established by the City for each designated entrance corridor. Upon adoption of the Corridor Master Plan for a designated EC-O

corridor, individual development shall provide for the design, massing, materials and colors of structures to be visually harmonious with the recommendations of the Corridor Master Plan.

3. Site development should be coordinated with and include corridor streetscape improvements included in the Corridor Master Plan for the EC-O corridor. These may include decorative light fixtures, planters, retaining walls, pedestrian and bicycle paths, bicycle parking structures, trash receptacles and enclosures, vendor areas, and fences.

## J. Site Landscape Requirements

1. Site landscaping shall be consistent with the design guidelines provided in the Corridor Master Plan for the EC-O corridor. The purpose and intent of coordinated landscape requirements is to:
  - (a) provide visually harmonious and compatible setting for structures on with adjoining or nearby lots
  - (b) blend with the surrounding landscape
  - (c) reduce the visibility of paved areas from adjacent properties and streets
  - (d) moderate climatic effects; minimize noise and glare
  - (e) enhance public safety by defining spaces so as to not impair traffic movement
  - (f) reduce the amount of storm water runoff and provide transition between neighboring properties
2. A landscaping plan prepared in accord with the requirements of this ordinance shall be submitted in conjunction with site plan submittal. Such landscaping plan shall be drawn to scale, include dimensions and distances, and clearly delineate all existing and proposed vehicular movement and parking, and the location, size and description of all landscaping materials.
3. All plant materials shall be living and in a healthy condition. Plant materials used in conformance with the provisions of these specifications shall conform to the standards of the most recent edition of the "American Society for Nursery Stock" published by the American Association of Nurserymen. The property owner shall be responsible for the maintenance, repair, and replacement of all landscaping materials.
4. For any parking lot that is approved to front along a designated EC-O corridor, an evergreen hedge or other approved landscape form shall be planted along the edge between the parking lot and the road frontage. The hedge should reach a minimum of three feet in height at maturity and be continuous and should allow for maintenance of adequate sight distances for vehicular traffic.

## K. Corridor Signs

1. The purpose and intent of this section, in conjunction with the sign regulations of this ordinance, is to:
  - (a) regulate the use of publicly visible displays or graphics for new and redevelopment projects within the EC-O corridor

- (b) protect and enhance the character of the corridor streets and highways
  - (c) prevent diminishing property values within these areas
  - (d) safeguard the public use and nature of these arterial streets and highway
  - (e) minimize visual distractions to motorists along arterial highways
2. Site and building signage and graphics consistent with the recommendations of the adopted Corridor Master Plan for each City entrance corridor shall be required for each individual project. The establishment of an integrated signage system for existing development within the district is strongly encouraged.
  3. Project signs shall be reviewed for materials, colors, shapes, sizes, and compatibility with architecture, letter style, graphic display, and establishment of unity of design for the development. Materials, colors, and shapes of proposed signs shall be compatible with the related buildings within a project.
  4. Size and proportions shall not be a dominant feature of the site and shall be judged by sizes and proportions of signs on adjacent and nearby properties that are compatible with City character.

#### **L. Exemptions to the Requirements of the EC-O District**

1. Single-family dwellings: The construction of detached single-family dwellings on individual lots or parcels within the EC-O corridor which are not located within a residential subdivision are exempt from this section. Also construction of detached single-family dwellings on lots or parcels within a residential subdivision are exempt if the subdivision plat was legally recorded prior to adoption of this section.

#### **M. EC-O District Development Review**

1. All development proposals for property located within an EC-O corridor and other applicable projects shall submit a site plan to the Zoning Administrator for review by the Planning Commission. The site plan application shall include additional documentation required herein below or as otherwise required by the Zoning Administrator in addition to those requirements indicated for all conventional site plan applications in the ordinance.
2. All site plan applications for property located within an EC-O corridor submitted for review shall be deemed complete by the Zoning Administrator according to the requirements of this section before being reviewed by the Planning Commission for conformance with applicable standards and guidelines of this section. No site plan submitted for review shall be considered until the minimum items of submission required by this section have been submitted in a format acceptable to the Zoning Administrator and the review fee as established by this ordinance has been paid.
3. In cases where an applicant EC-O property is also included in a designated Historic Preservation Overlay (HP-O) District, the Architectural Review Board will also review the application and provide a recommendation for approval, approval with conditions, or denial, to the Planning Commission. This review shall not replace the need for a completed Certificate of Appropriateness as required elsewhere in this ordinance.



4. A site plan for development in an EC-O corridor shall include clearly labeled plans, drawings, photographs and/or narratives depicting or presenting the following, unless deemed unnecessary by the Zoning Administrator due to the scope and nature of the proposed development:
  - a. Surveyed property lines
  - b. Survey of existing topography and the location of trees and other vegetation meeting the preservation and/or protection provisions of this section
  - c. A site plan or plans depicting the dimensions and location of all buildings and structures (including rooflines)
  - d. Photographs or drawings of neighboring uses and architectural styles
  - e. A signage plan prepared in accord with the standards provided in the sign ordinance and Corridor Master Plan, to include the location and design of all proposed exterior site lighting within the proposed development
  - f. Architect's or artist's rendering of all proposed structures depicting the front, side and rear elevations including architectural treatment of all structural exteriors, including building materials and colors to be utilized

## N. Waivers

1. An applicant or owner may request a waiver, variation or substitution pursuant to the requirements and application of this section. A written request for a waiver, variation or substitution shall state the rationale and justification for such request together with such alternatives as may be proposed.
2. Such request shall be submitted to the Planning and Zoning Administrator with the filing of a site plan, provided that the Zoning Administrator may waive certain provisions as referenced herein in conjunction with the concept plan and pre-application conference.
3. The Planning Commission, at its sole discretion, may accept the request for waiver, variation or substitution for any requirement in a particular case upon a finding that the waiver, variation or subdivision of such requirement would advance the purposes of this ordinance and otherwise serve the public interest in a manner equal to or exceeding the desired effects of the requirements of the ordinance. Alternately, the Planning Commission may recommend a conditional modification to the request or the Planning Commission may deny the request.
4. Approval or conditional approval of a waiver, variation, or substitution shall be accompanied by a statement from the Planning Commission as to the public purpose served by such waiver, variation, or substitution, particularly in regard to the purpose and intent of this section, this ordinance, the subdivision ordinance, and the Comprehensive Plan. No such waiver, variation, or substitution shall be detrimental to the public health, safety or welfare, orderly development of the area, sound engineering practice, or to properties located within the project impact area.

## *XXI.* HP-O, Historic Preservation Overlay District

### A. Purpose and Intent

The Historic Preservation Overlay (HP-O) District fulfills the Comprehensive Plan's goal of recognizing Martinsville's unique character and promoting the conservation and preservation of the City's historic resources, buildings, and properties. The preservation and effective growth management of the areas in and around the City's central business district and historic residential neighborhoods are fundamental to implementing Martinsville's goals for future land use.

The HP-O District is established in accord with Section 15.2-2306 of the Code of Virginia, as amended, to maintain, preserve, protect and enhance the architectural excellence, cultural significance, economic vitality, tourist appeal, visual quality and historic importance of the City. The purpose of this district is to provide for protection against destruction or encroachment upon historic areas, buildings, monuments or other features, or buildings and structures of recognized architectural significance which contribute or will contribute to the cultural, social, economic, political, artistic or architectural heritage of Martinsville and the Commonwealth of Virginia.

The HP-O District is designed to preserve designated landmarks, neighborhoods, and other historic or architectural features, and their surroundings within a reasonable distance, from destruction, damage, defacement and obviously incongruous development or uses of land and to ensure that buildings, structures, or signs shall be erected, reconstructed, altered or restored so as to be architecturally compatible with the historic landmark buildings or structures within the district.

### B. Application of the HP-O District

The boundaries of the HP-O District shall be delineated on the Official Zoning Map as adopted by City Council, and updated as necessary from time to time. All properties falling within the overlay shall be subject to the provisions of this section, in addition to the provisions of the applicable underlying zoning district.

### C. District Administration: Architectural Review Board

1. Architectural Review Board Power to Approve: No zoning, site plan, subdivision plat, or building permit shall be issued for the erection, reconstruction, exterior alteration, restoration, rehabilitation, razing, relocation or demolition of any building, structure, sign, fence, wall, light fixture, accessory building, grading, site improvement, significant landscaping feature or other appurtenant element in an HP-O District until such building or site element has been approved by the issuance of a Certificate of Appropriateness by the Architectural Review Board for the City (abbreviated as "ARB"). Issues of code compliance affecting the above mentioned elements of a building within an HP-O District shall also be referred to the ARB for consideration prior to any action, including demolition.

2. The Architectural Review Board will also serve as a consulting party to any required review under Section 106 of the National Historic Preservation Act, whether or not the project under review lies within the Historic Preservation Overlay District.
3. General Considerations for Review: The Architectural Review Board shall promptly review each application for any zoning, site plan, subdivision plat, and building permit for a building, structure, or property located within an HP-O District. In reviewing applications, the Architectural Review Board shall consider only those design features as seen from the street and shall not make any requirements except for the purpose of preventing development that is incompatible with the historic aspects of the HP-O District subject to review.

The Architectural Review Board shall consider, among other things, the following in determining appropriateness of any structural erection, reconstruction, exterior alteration, demolition, or restoration:

- a. The compatibility with the design and development standards and criteria as included in this section, in the Historic District Design Guidelines and, further, with amendments thereto as may be adopted from time to time
- b. The appropriateness of the general design geometry and proportions, structural arrangement, building materials, texture and color of the proposed building, structure or appurtenant element in relation to such factors as the compatibility with similar features of buildings or structures within the area circumscribed by the subject HP-O District. This shall include consideration of, but not be limited to, the following design elements:
  - (1) General design
  - (2) Character and appropriate of design
  - (3) Form
  - (4) Proportion and scale
  - (5) Mass
  - (6) Configuration
  - (7) Arrangement
  - (8) Texture
  - (9) Materials
  - (10) Color
- c. The historical or architectural value and significance of the building, structure or appurtenant element and its relationship to the historic or architectural value of the area in which it is proposed to be located
- d. The extent to which the building, structure or appurtenant element will be harmonious with or architecturally incompatible with the historic buildings within the subject overlay district(s)
- e. The compatibility of planned improvements and renovations with the architectural and historic quality, character and scale of the historic buildings in the City
- f. The effect of the building, structure or appurtenant element on the Comprehensive Plan's goals for tourism, economic development, and land use in and around the City's designated historic areas and entrance corridors

- g. The compatibility of the proposed building, structure or appurtenant element with the Comprehensive Plan's goals for historic preservation and architectural design review
  - h. The ability of the owner to put one's property to reasonable and beneficial use
4. Certificates of No Effect: Certain minor actions that will not permanently affect the historic character of a given HP-O District do not require a Certificate of Appropriateness, or the review of the ARB. Such minor actions may, upon application, be issued a Certificate of No Effect by the Zoning Administrator, certifying that no further review is required. Such actions shall include the following and any similar actions which in the opinion of the Zoning Administrator will have no more effect on the character of the district than those listed here:
- a. Interior building arrangements or exterior features of a building, structure or appurtenant element which are not subject to public view from a public street, public way or other public place, except when necessary to do so for the purpose of preventing the location, construction, reconstruction, alteration, demolition or repair of a building or structure which will be inconsistent with the preservation and protection of the historic aspect, setting and environment of the HP-O District and other buildings, structures, signs, land, places or areas therein
  - b. Addition/deletion of windows, storm windows, shutters, canopies and doors of a similar design type, color or texture that match existing windows, storm windows, and doors, including the addition or deletion of removable window air conditioners
  - c. Application or use of exterior materials (including roofing and siding) of a similar kind, type, color, or texture from those already in use which will substantially cover one or more sides of the structure but which will not result in destruction or replacement of original exterior material
  - d. Repainting resulting in the same or similar color
  - e. Planting of grass, trees and shrubs, but not including landscape treatment which substantially alters the contour of a landmark site
  - f. Construction of accessory buildings which are in keeping with the architectural character, materials and scale of the existing structure and its surroundings except on a site adjacent to a designated landmark site
  - g. Permitted outside storage in a residential which is not visible from a public street (provided screening and buffers for such storage is provided in accord with the Landscape Regulations. Section XXII of this ordinance)

Notwithstanding the above, the Zoning Administrator shall have the authority to order that work be stopped and that an appropriate application be filed for review in any case where in his opinion the action may produce arresting and spectacular effects, violent contrasts of materials or colors and intense and lurid colors or patterns, or incongruous details clearly inconsistent with the character of the present structures or with the prevailing character of the HP-O District.

- 5. Application Process: Applications for Architectural Review Board approval under the provisions of this section shall be made to the Zoning Administrator at least twenty-one (21) calendar days prior to the next regularly scheduled meeting of the Architectural Review Board, unless otherwise waived by the Zoning Administrator.
- 6. Application Submission Requirements: In consideration of a complete application, the Zoning Administrator and the Architectural Review Board may require any or all of the following information and any other materials as may be deemed necessary for its review:

- a. Statement of proposed use and user
  - b. Statement of estimated construction time
  - c. Historic photographs or maps relating proposed use to the surrounding property and/or the corridor on which it is located
  - d. Site plan drawings, prepared to meet the City site development plan submission requirements for a Preliminary Site Plan or Preliminary Subdivision Plat, and other exhibits showing the location of the existing and proposed building and site improvements, including:
    - (1) existing property boundaries, building placement and site configuration
    - (2) existing topography and proposed grading
    - (3) location of parking, pedestrian access, signage, exterior lighting, fencing and other site improvements
    - (4) relationship to adjacent land uses
    - (5) proposed site improvements, including location of parking, access, signage, exterior lighting, fencing, buildings and structures and other appurtenant elements
    - (6) proposed building color and materials
    - (7) relationship of building and site elements to existing and planned corridor development
    - (8) relationship of parking, pedestrian facilities, and vehicular accessways to existing and planned corridor development
    - (9) other site plans and subdivision plats as may be required by Martinsville for development approval
  - e. Architectural drawings showing plan view and elevations of new planned construction or renovations, including drawings of original building
  - f. A landscaping and buffer plan
  - g. Designs for exterior signing, lighting and graphics, to include description of materials, colors, placement and means of physical support, lettering style and message to be placed on signs
  - h. Graphic exhibits depicting compliance with other design elements
7. Required Action by Architectural Review Board:
- a. The Architectural Review Board, on the basis of the required information received from the applicant and upon application of the appropriate criteria as set forth in this section, shall review and act upon the application within sixty (60) calendar days upon submission of a complete application, unless the application was extended by mutual agreement of the Architectural Review Board and the applicant.
  - b. The Architectural Review Board shall act to approve, approve with modification, extend, or deny the application or Temporary COA (see #11 below).
  - c. The Zoning Administrator shall notify the applicant in writing of a decision by the Architectural Review Board within fourteen (14) calendar days from such action.
  - d. If no decision has been made by the ARB within sixty (60) days after the Zoning Administrator has received the application, and no mutual agreement between the

applicant and the architectural review board has been made for the extension of this time period, the Zoning Administrator may submit the application to the Clerk of the City Council and the City Council shall review the application, in the same manner as if a decision of the ARB had been appealed.

8. Incomplete Applications: Applications deemed incomplete by either the Zoning Administrator or the Architectural Review Board shall be returned to the applicant within fourteen (14) calendar days of initial application submission. In cases of returned applications, the Zoning Administrator shall provide guidance to inform the applicant of additional information required to complete the submission. The Architectural Review Board will not act upon an incomplete application.
9. Conditions and Limitations on Approval: Architectural Review Board approval of an application submitted under the provision of this section shall expire one (1) year after the date of such approval unless:
  - a. A building permit has been obtained for construction
  - b. An extension has been granted by the Architectural Review Board. Such extension grant shall not exceed six (6) months
10. Temporary Certificates of Appropriateness: The architectural review board may, at its discretion, issue a temporary certificate of appropriateness under the following circumstances:
  - a. To allow work to begin on a project while the final Certificate of Appropriateness is still being considered, and where such work will not affect the substance of the final certificate.
  - b. An application does not meet the necessary requirements for architectural compatibility, but the applicant meets all of the following requirements:
    - (1) Strict application of this section would produce undue hardship
    - (2) The proposed work would not be of such a permanent nature as to preclude future activity which would meet compatibility compliance
    - (2) No such temporary certificate shall be issued in this condition which allows the proposed work to exist for a period longer than five (5) years.
11. Appeal of Architectural Review Board Decision:
  - a. Any person aggrieved by any decision of the Architectural Review Board may appeal such decision to the City Council, provided that such appeal is filed within thirty (30) calendar days from the date of notification of Architectural Review Board decision.
  - b. The appeal shall be filed with both the City Council and the Architectural Review Board, stating in writing the reasons therefore.
  - c. The City Council shall consult with the Architectural Review Board in relation to any appeal and may require documentation of any Architectural Review Board decision prior to hearing the appeal.
  - d. The City Council may affirm, reverse or modify the Architectural Review Board decision and shall notify the Zoning Administrator of its action.
12. Appeal of City Council Decision:
  - a. Any person aggrieved by any decision of the City Council may appeal such decision to the Circuit Court of Martinsville provided that such appeal is filed within thirty (30) days after a final decision is rendered by the City Council.

- b. The filing of the said petition shall stay the decision of the City Council pending the outcome of the appeal to the circuit court, except that the filing of such petition shall not stay the decision of the City Council if such decision denies the right to raze or demolish a historic landmark, building or structure located within the HP-O District or on the City's designated list of historic properties.
  - c. The Circuit Court may reverse or modify the decision of the City Council, in whole or in part, if it finds upon review that the decision of the City Council is contrary to law or that its decision is arbitrary and constitutes an abuse of power or discretion, or the Circuit Court may affirm the decision of City Council.
13. Provisions for Demolition and Razing: In addition to the right of appeal herein set forth, the owner of a site, object, building or structure within the HP-O District, the razing of which is subject to the provisions of this district shall, as a matter of right be entitled to raze or demolish such site, object, building or structure provided that:
- a. The owner has applied to the Architectural Review Board for such right.
  - b. The owner has for the period of time set forth in the time schedule hereinafter contained and at a price reasonably related to its fair market value, made a bona fide offer to sell such site, object, building or structure and the land pertaining thereto to whomever gives reasonable assurance that it is willing to preserve and restore the landmark, building, or structure and the land pertaining thereto.
  - c. That no bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such landmark, building or structure and the land pertaining thereto, prior to the expiration of the applicable time period set forth in the time schedule hereinafter contained. Any appeal which may be taken to court from the decision of the governing body, whether instituted by the owner or by any other proper party, notwithstanding the provision heretofore stated relating to a stay of the decision appealed from, shall not affect the right of the owner to make the bona fide offer to sell referred to above.
  - d. No offer to sell shall be made more than one year after a final decision by the governing body, but thereafter the owner may renew his request to the governing body to approve the razing or demolition of the historic landmark, building or structure. The time schedule for offers to sell shall be as follows:
    - (1) Three (3) months when the offering price is less than twenty-five thousand dollars
    - (2) Four (4) months when the offering price is twenty-five thousand dollars or more but less than forty thousand dollars
    - (3) Five (5) months when the offering price is forty thousand dollars or more but less than fifty-five thousand dollars or more but less than seventy-five thousand dollars
    - (4) Six (6) months when the offering price is fifty-five thousand dollars or more but less than seventy-five thousand dollars
    - (5) Seven (7) months when the offering price is seventy-five thousand dollars or more but less than ninety thousand dollars
    - (6) Twelve (12) months when the offering price is ninety thousand dollars or more
  - e. During the timeframe for the offer to sell, the Architectural Review Board may take steps as deemed necessary to preserve, acquire or relocate the buildings, structures or

appurtenant elements in accord with the purposes of this section, including, but not limited to, coordination with public agencies, civic groups and citizens.

#### **D. Protective Maintenance Required**

1. The owner of any building or structure located in a historic district shall keep such structure properly maintained and repaired.
2. The degree of maintenance and repair hereby required is that degree sufficient to prevent all permanent damage to the structural components and/or the exterior by any foreseeable force, including but not limited to weather, fire and termites.
3. The Zoning Administrator may require such owner to discharge this maintenance duty. Acts which the Zoning Administrator may require such owner to perform, pursuant to this subsection, shall include, but shall not be limited to, the following: exterior painting; replacing broken window panes; securing abandoned structures by boarding up, or otherwise; maintaining a sound roof, eaves and roof gutters; termite treatment, if the board suspects that the structure contains termites.
4. The Zoning Administrator may use whatever legal processes are needed to assure that this duty is discharged fully and properly. The Zoning Administrator, to the extent that their powers permit, shall honor requests made by the board for the purpose of enforcing this subsection.

#### **E. Permitted Uses and Limitations**

1. All uses shall be governed pursuant to the underlying district regulations of the zoning district in which the HP-O District is located.
2. Nothing in this section shall be construed to prevent the application of the City's building code. In cases of conflict between this section and the building code, the provisions of the building code shall supersede the HP-O district and ARB.
3. Parking and loading provisions shall be in accordance with the provision of the zoning ordinance unless otherwise restricted by the conditions of Architectural Review Board approval or waived by the City Manager.
4. The normal maintenance of a historic area or structure, or the charging of admission fees for visitors or tours within the HP-O District shall not be considered as a commercial use.

#### **F. Additions to Historic Districts**

The City Council may adopt an ordinance setting forth the historic landmarks within the City (as established by the Virginia Board of Historic Resources), and any other property, buildings or structures within the City having an important historic, architectural or cultural interest, and any historic areas within the City as defined by Section 15.2-2201 of the Code of Virginia, and areas of unique architectural value located within designated conservation, rehabilitation or redevelopment districts, amending the



existing zoning ordinance and delineating one or more historic districts, adjacent to such landmarks, buildings and structures, or encompassing such areas, or encompassing parcels of land continuous to arterial streets or highways found by the City Council to be significant routes of tourism access to designated historic landmarks, buildings, structures, or districts within the City or the contiguous jurisdictions.

The City Council may also amend the existing zoning ordinance by delineating one or more historic districts adjacent to such landmarks, buildings and structures or encompassing such historic areas, provided, that such amendment of the zoning ordinance and the establishment of such district or districts shall be in accordance with the provisions of the Code of Virginia and the provisions of the City Code relative to amendments to the zoning ordinance.

## G. ARB Membership and Organization

1. Establishment of Architectural Review Board: For the purpose of administering the provisions of this section, there shall be established an Architectural Review Board ("or "ARB".)
2. General Powers and Duties of Architectural Review Board: Based on the criteria established in this section and by other adopted design guidelines of the City, it shall be the function of the Architectural Review Board to pass upon the appropriateness of the exterior architectural features and appurtenant elements (including site development and landscape features) of new structures, buildings or appurtenant elements reconstructed, altered or restored in any HP-O District wherever such features are sited on property contiguous to or in public view from the designated arterial corridor.
3. Membership and Terms of Architectural Review Board:
  - a. The Architectural Review Board shall consist of seven (7) citizens, all of whom shall be residents of the City of Martinsville, except that one member may be a licensed architect or landscape architect who is not a resident of the City. The members shall be appointed by the City Council and serve without compensation.
  - b. The Architectural Review Board members shall serve a term of three (3) years, except that original appointments shall be made such that terms expire on a staggered basis.
  - c. At the first meeting of the Architectural Review Board, the members, by majority vote, shall elect one member to serve as chairman. Thereafter, a chairman shall be elected to a two year term at the first meeting to be held on or after July 1, in such year. Similarly, the members shall elect a vice-chairman and secretary who will also serve for a term of two years. The secretary may or may not be a member of the board.
  - d. Appointments to the Architectural Review Board to fill vacancies shall be only for the unexpired term of the departing member.
  - e. Members of the Architectural Review Board may be reappointed to succeed themselves. A member whose term expires may continue to serve until a successor is appointed and qualifies.
  - f. A waiver of the membership constituency of the ARB may be provided in the event that the City Council cannot fulfill the membership requirements as outlined hereinabove.

- g. The Architectural Review Board shall adopt rules of procedure and keep written minutes of its meetings.

4. Duties of the Zoning Administrator:

- a. The Zoning Administrator shall act as agent to the Architectural Review Board.
- b. Upon issuance of a Certificate of Appropriateness, the Zoning Administrator shall from time to time inspect the alteration or construction approved by such certificate and shall give prompt notice to the applicant of any work not in accordance with such certificate or violation any ordinances of the City.
- c. The Zoning Administrator may revoke the Certificate of Appropriateness or the building permit if violations are not corrected by the applicant in a timely manner.

5. General Rules of the Architectural Review Board:

- a. There shall be a regular monthly meeting of the Architectural Review Board except that, at the discretion of the Chairman, a regular meeting may be canceled if there is no business pending before the Architectural Review Board, and after inquiry of the other members there is no new business to be presented. A schedule of the dates of the monthly meetings shall be established, and the dates of upcoming meetings posted on the City's website.
- b. Special meetings of the Architectural Review Board may be called by the Chairman or by two members upon written request to the secretary. The secretary shall mail to all members of the Architectural Review Board, at least five days in advance of a special meeting, a written notice fixing the time and place of the meeting and the purpose thereof. Written notice of a special meeting is not required if the time of the special meeting has been fixed at a regular meeting, or if all members are present at the special meeting or file a written waiver of notice.
- c. For the conduct of any meeting and the taking of any action, a quorum shall be not less than a majority of the current members of the Architectural Review Board.
- d. The Architectural Review Board may make, alter, or rescind rules and forms for its procedures, consistent with the ordinances of the City and the general laws of the Commonwealth of Virginia.
- e. It shall be the continuing duty of the Architectural Review Board to define, update and adopt architectural review standards and design criteria deemed appropriate to the City. These standards and criteria shall serve as the guideline for making decisions on specific applications to the Architectural Review Board.
- f. It shall be the continuing duty of the Architectural Review Board to investigate and delineate buildings, structures, places and areas in the City having historic interest or value which should be protected to achieve the purposes and objectives of this section. The Architectural Review Board shall report from time to time to the City Council to make recommendations on district boundaries, architectural review criteria, design standards and other related initiatives and considerations deemed appropriate to the effective operation of the Architectural Review Board and the implementation of this section.
- g. Notwithstanding the provisions of this section, the Architectural Review Board may perform other duties under the authority of the Zoning Ordinance and as may be designated by the City Council.

## *XXII.* Landscape Standards

### A. Purpose and Intent

The purpose of this section is to establish standards for landscape architecture, site design, site buffering, and landscape screening. With the intent of preserving and promoting the health, safety, and general welfare of the City, these regulations are based on the following goals:

1. Facilitate the protection, replenishment and maintenance of the existing environment;
2. Conserve and protect the character of the City's sensitive environmental resources, open spaces, parks, and entrance corridors;
3. Preserve and enhance the aesthetic character of the City;
4. Protect and improve the quality of the City's natural rivers, streams, and wetlands;
5. Enhance erosion control practices through the creative use of plant materials;
6. Improve the relationship between adjacent properties via screening and buffering;
7. Preserve and enhance to quality of existing flood plains and stream valleys through improved landscaping and landscape maintenance;
8. Provide adequate tree canopy and vegetative cover for new development; and
9. Introduce and promote complementary landscaping to supplement site plan requirements, Best Management practices, and stormwater management improvements.
10. Promote creative and attractive landscapes that support economic development and the beautification of the City's neighborhoods, central business district, and entrance corridors.

### B. Application of Landscape Standards

1. Unless otherwise waived or modified by the Zoning Administrator as provided in this ordinance these landscape requirements shall apply to:
  - a. All new developments, or redevelopments, requiring an approved site plan as specified in this ordinance
  - b. All properties seeking rezoning or special use permit under the requirements of this ordinance
2. These requirements shall not apply to existing or proposed, single-family detached dwellings on individual lots.
3. Review for compliance with the standards of this section shall occur during review of an application for a site plan, special use permit, and/or TND-O or EC-O development, as appropriate.

### C. Landscape Plan Requirements

1. A landscape plan must be submitted with each site plan application, unless specifically waived by the Zoning Administrator. A waiver may be made in cases where the Zoning Administrator determines that the project is of a minor nature or where the absence of a landscape plan would have minimal impact on surrounding public or private facilities.
2. The landscape plan shall include:
  - a. Location, type, size, height, number and botanical name and construction details for proposed landscaping materials. Information is to be provided in graphic and tabular format
  - b. Planting specifications and installation details for proposed landscaping materials, including a schedule of recommended planting timeframes for specific plant materials and ground covers
  - c. Location and size of all existing landscape materials to be retained during the site development process as well as appropriate landscape protection measures to be implemented during the site construction process
  - d. Location, size and other related design details for all hardscape improvements, signage, recreational improvements and open space areas, fences, walls, barriers and other elements related to transitional buffer yards
  - e. Designation of required setbacks, yards and screening areas
  - f. Location of other man-made site features, parking lots, hardscape improvements, overhead structures and underground utilities to ensure that landscape materials will not be in conflict with the placement and operation of these improvements
  - g. Acreage of disturbed areas, computed to the nearest 0.1 acre
  - h. Acreage and location of proposed open spaces and recreation areas, computed to the nearest 0.1 acres
  - i. Location, size and construction details for site lighting, special hardscape and landscape features, irrigation systems and exterior site furnishings
  - j. Methods and specifications for tree protection during construction phases
  - k. Landscape treatment of stormwater management improvements, Best Management Practices structures, and erosion and sediment controls
  - l. Certification or statement of qualifications of the landscape plan preparer
  - m. The location of proposed irrigation systems intended to support the installed landscaping

## D. General Landscape Standards

1. All required landscaping materials shall be installed prior to the issuance of a certificate of occupancy, provided that seasonal planting adjustments may be approved by the Zoning Administrator.
2. Existing healthy, well-formed canopy and understory trees, as well as healthy shrubs, shall be credited toward the requirements of this section, provided the vegetation meets the minimum size standards and is protected before and during development of the site and maintained thereafter in a healthy growing condition
3. All landscape materials shall be selected and sized in accordance with hardiness rating and growth habit appropriate for the intended placement of materials. All landscape materials shall be well branched and well formed, vigorous, healthy and free from disease, sun and wind damage and insect and shall have healthy and unbroken root systems.
4. Stormwater management facilities required by this Ordinance or other state, federal or City requirements may be incorporated into a proposed landscaping plan, potentially resulting in a credit towards landscaping or open space set-aside requirements, where applicable.
5. The owner of the property upon which the required landscaping or buffering is installed shall be responsible for perpetual maintenance and replacement. If any required tree, shrub, or other landscaping element shall die or be removed after issuance of the certificate of occupancy, the developer, his or her successors or assigns, shall replace each by the end of the next planting season with trees or shrubs of the same or similar species, type, color, or character.
6. Species of trees shall not be planted if the roots cause damage to public works, the branches are subject to high incidence of breakage, and the fruit is considered a nuisance or high maintenance as determined by the director of public works.
7. Landscaping shall not obstruct the view of motorists using any street, private driveway, parking isles, or the approach to any street intersection so as to constitute a traffic hazard or a condition dangerous to the public safety. Whenever the enforcement of the provisions of this ordinance may be deemed a traffic hazard, the Zoning Administrator may waive any or all requirements.
8. The quality and type of all new plant materials installed on a site shall be in accord with the specifications of the American Association of Nurserymen, provided that the transplanting of trees and shrubs may be done in accordance with accepted horticultural and forestry practices.
9. All landscape materials shall conform to the following minimum size or height standards at the date of planting:
  - a. Deciduous shade trees: 2" caliper
  - b. Ornamental and understory trees: 6' height
  - c. Coniferous trees: 6' height
  - d. Evergreen shrubs: 18" spread or height
  - e. Deciduous shrubs: 24" spread or height

## E. Tree Canopy Requirements

1. For purposes of this section, "tree canopy" shall include all areas of coverage by existing plant material exceeding five (5) feet in height, and the extent of planted tree canopy at maturity shall be based on the published reference text, Manual of Woody Landscape Plants, fifth edition, 1998, by Michael A. Dirr or other commonly accepted landscape material reference manual.
2. The planting or replacement of trees on a development site shall be required to the extent that twenty (20) years after planting, minimum tree canopies shall be provided as follows in the following zoning districts:
  - a. All Residential Districts: 20% of entire development site
  - b. Transitional and Professional Districts: 15% of entire development site
  - c. Commercial Districts: 10% of entire development site
  - d. Economic Development Districts: 10% of entire development site
3. Tree canopy requirements may be reduced on a case-by-case basis by waiver of the Zoning Administrator during the site plan or subdivision plat approval process where it can be clearly demonstrated by the applicant that either (a) the reduced canopy achieves the intended landscape design objective through a combination of alternative landscape architectural and landscaping techniques, or (b) where the characteristics of the property are such that the canopy coverage would not be effective and other methods of landscaping provide equal and adequate design responses.
4. Upon approval of the Zoning Administrator, tree canopy requirements may be met through off-site plantings on City owned lands.
5. Existing trees that are to be preserved may be included to meet all or part of the tree canopy requirements. Any existing tree used to meet the requirements of this ordinance must be at least three (3) inch caliper, and be protected during any construction activity.
6. Existing trees infested with disease or structurally damaged to the extent that they pose a hazard to person or property, or to the health of other trees on site, shall not be included to meet the tree canopy requirements.
7. Tree canopy requirements do not replace, or negate full compliance with, the requirements of any other section of the landscaping ordinance. However, if planting of landscaping required by this ordinance meets or exceeds the tree canopy requirement, no further planting of trees or replacement of trees is required by this section.
8. The following shall be exempt from the acreage for the calculation of tree canopy requirements:
  - a. Dedicated K-12 school sites; public and private
  - b. Playing fields and other non wooded recreation areas
  - c. Designated wetlands and water features
  - d. Other, as may be approved by the Zoning Administrator

## F. Buffer and Screening Requirements

Landscape buffering is intended to provide a year-round visual screen between two or more properties containing uses deemed incompatible, or where otherwise necessary to in order to minimize adverse impacts. It may consist of fencing, evergreens, boulders, mounds, or a combination of materials to achieve buffering objectives.

1. A landscape buffer area, and associated plantings, shall be required in the following conditions:
  - a. Where a professional, commercial, or manufacturing zoned development abuts a residential zoning district.
  - b. Where the Zoning Administrator determines that a buffer is necessary to (1) to shield neighboring properties from any adverse external effects of a development; or (2) to shield the development from negative impacts of adjacent uses such as streets or railroads.
2. Buffer requirements:
  - a. Where a professional or business zoned development abuts a residential zoning district, a natural buffer strip twenty-five (25) feet in width shall be required. Where site considerations do not allow a natural buffer of twenty-five (25) feet width, a smaller buffer, or a privacy fence or wall, may be substituted for all or a portion of that buffer, as determined by the Zoning Administrator.
  - b. Where a commercial zoned development abuts a residential zoning district, a natural buffer strip of fifty (50) feet in width shall be required. Where site considerations do not allow a natural buffer of fifty (50) feet width, a solid privacy fence or wall and twenty-five (25) feet natural buffer strip may substitute.
  - c. Where a manufacturing zoned development abuts a residential zoning district, a natural buffer strip of one hundred (100) feet in width shall be required. Where site considerations do not allow a natural buffer of one hundred (100) feet width, a solid privacy fence or wall and fifty (50) feet natural buffer strip may substitute.
  - d. Where residential subdivisions abut higher order streets (collectors or arterials), adjacent lots shall front on lower order streets, and a landscaped buffer area shall be provided along the property line abutting the road. The buffer strip shall be a minimum of twenty-five (25) feet wide or wider where necessary for the health and safety of the residents. It shall include both trees and shrubs.
4. Plants should be sufficiently large and planted in such a fashion that a year-round screen at least six (6) feet in height shall be produced within one growing season. All plantings shall be installed according to accepted horticultural standards.
5. Arrangement of plantings in buffers shall provide maximum protection to adjacent properties and avoid damage to existing plant material. Possible arrangements include planting in parallel, serpentine, and broken rows. If planted berms are used, the minimum top width shall be four (4) feet, and the maximum side slope shall be 2:1.
6. No buildings, structures, storage of materials, or parking shall be permitted within a buffer area.
7. In addition to other required landscape elements, screening shall be required to conceal specific areas from both on-site and off-site views. Such areas shall be screened at all times, unless waived

by the Zoning Administrator or planning commission, regardless of adjacent uses, adjacent districts, or other proximate landscaping material. Specific areas to be screened include:

- a. Large waste receptacles (dumpsters) and refuse collection points (including cardboard recycling containers)
  - b. Loading and service areas
  - c. Outdoor storage areas (including storage tanks)
  - d. Ground-based utility equipment with size in excess of 12 cubic feet
  - e. Ground level mechanical units
8. The above-mentioned areas shall be screened using an appropriate combination of landscape plants, fencing, or masonry walls to adequately screen them from views both on and off the subject property.
9. Buffer and screening plantings shall be maintained in perpetuity in such a way as to ensure that the buffering requirements of this ordinance continue to be met. Any dead or dying plants shall be removed within thirty (30) days of notification by the Zoning Administrator and shall be replaced by the property owner during the next viable planting season

## G. Parking Lot Landscape Requirements

All vehicle parking areas, public and private, shall include landscaping, both within the interior of the parking area and around its perimeter, to provide shade, screen views, mitigate runoff, and provide aesthetic appeal. However, the landscape provisions of this Section are not intended to apply to off-street parking spaces or private driveway access for individual single family residential dwellings.

1. Parking Lots Adjacent to Lot Lines: For parking lots immediately adjacent to lot lines, the following landscape regulations shall apply:
  - a. Where a parking lot (or a private driveway providing access to a parking lot or building entry) abuts a property line not common with the right-of-way of a street, a landscaping strip of two and one-half (2 1/2) feet in width shall be located between the parking lot and the abutting property line.
  - b. A minimum of one tree for each forty (40) feet of contiguous property line shall be planted in the landscaping strip. This planting shall be in addition to any planting within a required zoning district buffer yard and in addition to any planting within six (6) feet of a building or structure.
  - c. Where appropriate, shrubs and ground covers may be provided within the landscaping strip to establish an enhanced low level visual buffer between the adjoining properties.
  - d. At maturity, these shrubs and other ground covers shall be three (3) to five (5) feet in height. Landscape plans are encouraged to incorporate earth berms, where appropriate, into the buffer strips.
2. Parking Lots Adjacent to Public Streets: For parking lots and private access adjacent to public streets which are subject to site plan or subdivision approval, or where a site plan is otherwise required, the following landscape regulations shall apply:



- a. Where a parking lot (or a private driveway providing access to a parking lot or building entry) abuts a public right-of-way for a City street, a landscaping strip of five (5) feet in width (not including the sidewalk) shall be located between the parking lot or private driveway and the right-of-way line.
  - b. A minimum of one tree for each forty (40) feet of property line common with the public right-of-way shall be planted in the landscaping strip. This planting shall be in addition to any planting within a required buffer and in addition to any planting within six (6) feet of a building or structure.
  - c. Where appropriate, shrubs and ground covers may be provided within the landscaping strip to establish an enhanced low level visual buffer between the parking lot and the public right-of-way.
  - d. At maturity, these shrubs and other ground covers shall be a minimum of three (3) to five (5) feet in height. The landscape design for such shrubs and ground covers shall also serve to direct and control pedestrian access into parking lots.
  - e. Landscape plans are encouraged to incorporate earth berms, where appropriate, into the right-of-way landscaped buffer strips.
3. All parking lots of thirty-one (31) or more spaces shall contain within the interior of the parking lot not less than one tree for every fifteen (15) continuous parking spaces or fraction thereof. Such trees shall be reasonably dispersed throughout the interior of the parking lot in accord with good landscape and urban design practices. In the instance where the parking lots contain double-loaded parking bays, trees planted in the interior section between the bays may count towards the spaces in both rows. In the case of redevelopment proposals, this parking lot tree requirement is only applicable to those proposals that necessitate additional parking spaces over those that are currently provided.
4. Landscaping located within the interior of parking lots shall be contained within planting islands with raised medians. Planting islands which are located parallel to the long dimension of a parking spaces shall have a minimum width of ten (10) feet and shall be designed to permit vehicular doors to open fully without impacting plant materials. A median (or island) shall be constructed to separate no more than fifteen (15) contiguous perpendicular spaces for single-loading bays and thirty (30) for double-loading bays. A planting island with raised median (with curb and gutter) shall be constructed to terminate the end of any perpendicular parking bay and to provide adequate separation from an adjacent to a private driveway or travelway.
5. Landscaped planting islands (located such that parking spaces are on opposing sides of the planting island) shall be developed in parking lots meeting the following criteria:
  - a. The total size of the parking lot exceeds one hundred fifty (150) total parking spaces.
  - b. Parking lot layout incorporates three or more double-loaded or single-loaded parking bays which are contiguous and parallel to each other, and the requirements of Paragraph 4 above.
  - c. Planting islands which are designed to be perpendicular to the parking bay shall be constructed for every other parking bay.
  - d. Planting islands shall have a minimum width of six (6) feet to allow for bumper overhang and shall otherwise provide adequate width for the growth and maintenance of the intended landscape materials to be planted therein.

6. The primary landscaping materials used in parking lots shall be trees which provide shade or are capable of providing shade at maturity. Shrubs and other live planting material may be used to complement the primary, tree landscaping.
7. The landscaping shall be dispersed throughout the parking lot, with interior dimensions of any planting area (i.e. interior parking median) sufficient to protect and maintain all landscaping materials planted therein.
8. The type and method of parking lot landscape irrigation shall be fully described in the site plan if any irrigation is to be included in the design.
9. The applicant, or the applicant's landscape architect, landscape designer, or project engineer shall consult with the Zoning Administrator during the concept plan phase to determine the most appropriate parking lot layout and coordinated landscape design concepts, tree placement, and suitable species of trees and ground cover to be used in parking lots.

## H. Walls and Fences

1. Fences and walls may be used within planned landscaping to provide, buffering, privacy, separation, security, or for aesthetic reasons, but may not create an unsightly or unsafe condition on or off of the public or private property on which the fence or wall is proposed.
2. The provisions of this section shall apply to all construction, substantial reconstruction, or replacement of fences or walls except:
  - a. those required for support of a principal or accessory structure
  - b. engineered retaining walls necessary to the development of a site
  - c. temporary fences for construction activities, trees protection, and erosion and sediment control
3. Fences or walls shall be located outside of the public right-of-way, and may not exceed 24 inches in height if located within a required sight triangle.
4. Fences and walls may be located within any required yard.
5. Fences located within an easement shall receive written authorization from the easement holder or the City (as appropriate). The city shall not be responsible for damage to, or the repair or replacement of, fences that must be removed to access such easements or facilities.
6. No fence or wall shall be installed in a manner or in a location so as to block or divert a natural drainage flow on to or off of any other land, unless the fence or wall has specifically been approved as part of an approved stormwater management plan.
7. Nothing in this section shall be construed to prevent the installation of temporary fencing to protect existing trees, or as part of an approved erosion and sediment control plan.
8. A fence or wall in any residential zoning district shall not exceed 7 feet in height above the existing grade, unless approved by the Zoning Administrator.
9. A fence or wall in any professional, commercial, or manufacturing district shall not exceed 8 feet in height above the existing grade.
10. No fence or wall shall be constructed in a manner or in a location that impairs safety or sight-lines for pedestrians and vehicles traveling on public rights of way.

11. All fences and walls and associated landscaping shall be maintained in good repair and in a safe and attractive condition. The owner of the property on which a fence or wall is located shall be responsible for maintenance, including but not limited to, the replacement of missing, decayed, or broken structural and decorative elements.
12. All fences and walls shall receive regular structural maintenance to prevent and address sagging and weathering of surfaces visible from the public right-of-way. Any deteriorated, damaged, or decayed fence materials shall be repaired.
13. The design and materials used shall be functional and compatible with existing and proposed site architecture.

## I. Site Protection and General Planting Requirements

1. Topsoil preservation. Topsoil moved during the course of construction shall be redistributed on all re-graded surfaces so as to provide at least four (4) inches of even cover to all disturbed areas of the development and shall be stabilized by seeding and planting.
2. Removal of debris. All stumps and other tree parts, litter, brush, weeds, excess or scrap building materials or other debris shall be removed from the site within thirty (30) days of notification by the Zoning Administrator and disposed of in accordance with the law. No tree stumps, or portions of tree trunks or limbs shall be buried anywhere in the development. All dead or dying trees, standing or fallen, shall be removed from the site within thirty (30) days of notification by the Zoning Administrator. If trees or limbs are reduced to chips, they may be used as mulch in landscaped areas, subject to approval by the administrator.
3. Protection of existing plantings. Maximum effort should be made to save fine specimens. No material or temporary soil deposits shall be placed within four (4) feet of shrubs or ten (10) feet of trees designated on the landscape plan to be retained. Protective barriers or tree wells shall be installed around each plant and/or group of plants that are to remain on the site. Barriers shall not be supported by the plants that they are protecting but shall be self supporting. They shall be a minimum of four (4) feet high and constructed of a durable material that will last until construction is completed. Snow fences and silt fences are examples of acceptable barriers.
4. Slope plantings. Landscaping of all cuts and fills and/or terraces shall be sufficient to prevent erosion, and all roadway slopes steeper than one foot vertically to three (3) feet horizontally shall be planted with ground cover appropriate for the purpose and the soil conditions, water availability and environment.
5. Additional landscaping. In high density residential developments, besides the screening and street trees required, additional plantings or landscaping elements may be required where necessary for privacy, or other reasons in accordance with the landscape plan approved by the planning commission and taking into consideration cost restraints. In nonresidential developments, all areas of the site not occupied by buildings and required improvements shall be landscaped by the planting of grass or other ground cover, shrubs, and trees as part of the landscape plan approved by the planning commission.
6. Planting specifications. Deciduous trees shall have at least a two-inch caliper at planting. Size of evergreens and shrubs shall be allowed to vary depending on setting and type of shrub. Only nursery grown plant materials shall be acceptable, and all trees, shrubs, and ground covers shall be planted according to accepted horticultural standards. Dead and dying plants shall be removed from the site

within thirty (30) days of notification by the Zoning Administrator and shall be replaced by the developer during the following planting season.

7. Plant species. The plant species selected should be hardy for the local climate zone and growing season and appropriate in terms of function and size. No species to be planted in public pedestrian or civic spaces that create health or safety hazards.

## J. Recommended Plant Materials

Landscaping plans and plantings installed within the City should generally aspire to follow the example of trees and plants native to Virginia and the Martinsville region, as well as those landscape patterns established in the City in the past.

1. Landscape designers shall make every effort to utilize natural materials, trees, shrubs, and other plants native to Virginia, and to create landscapes that minimize the need for maintenance and irrigation. Non-native species are not recommended.
2. For the purposes of meeting the City of Martinsville's landscape ordinance goals, the following plant and tree species are suggested as a guide to landscape architects and landscape designers. This list is intended as a suggestion only. Tree selection in and maintenance of areas frequented by pedestrians should take into consideration the potential safety hazard created by leaf matter.

Final plant suggestions should be made by property owners in consultation with qualified landscape professionals, and should consider specific site conditions, disease resistance, and other qualities to ensure healthy and beautiful landscapes.

- a. Street and shade trees: Green Ash, Red Maple, Norway Maple, Sugar Maple, Red Oak, Willow Oak, Japanese Pagoda Tree, Silver Linden, Zelkova, Yellowwood, Bald Cypress
- b. Ornamental or flowering trees: Amur Maple, Dogwood (Kousa), Washington Hawthorn, Plum, Serviceberry, Redbud, Callery Pear, Crepe Myrtle, Gingko Tree, Crab Apple
- c. Evergreen or flowering shrubs: English Yew, Japanese Yew, Azalea, Chinese Holly, Rhododendren, Abelia, Cotoneaster, Forsythia, Viburnum, Winged Euonymus, Flowering Quince, Shadbaw
- d. Buffering/screening: Austrian Pine, Norway Spruce, American Holly, Arborvitae, Foster Holly, White Pine

## *XXIII.* Off-Street Parking and Loading

### A. Purpose and Intent

The purpose of this section is to ensure the adequate provision of off-street parking and loading facilities in proportion to the parking, loading, and transportation demands of the land uses allowed by this ordinance. The standards in this section are intended to provide for adequate off-street parking while avoiding excessive paved areas that may be unattractive and contribute to greater stormwater runoff and environmental pollution.

### B. Applicability

1. The off-street parking and loading requirements of this section shall apply to all zoning districts within the City of Martinsville, with the exception of the C-UB (Uptown Business District) where it is generally recognized that on-street parking and public lots will provide parking access to existing establishments. New development and redevelopment uses in the C-UB District may still require off-street parking, or be required to contribute to public parking facilities, as may be determined during the site plan process.
2. No portion of these regulations shall be interpreted to apply these parking requirements retroactively to uses lawfully established prior to the effective date of this ordinance.
3. Parking information shall be required in connection with every proposed development, for every proposed change in use of land, buildings or structures, and for every proposed alteration of a building or structure. The parking plan shall accurately designate the required parking spaces, access aisles, and driveways, and the relation of the off-street parking facilities to the development the facilities are designed to serve. The parking plan shall provide calculations for parking requirements.

### C. Off-Street Parking Requirements

1. Every use or building instituted, constructed, erected, enlarged or structurally altered after the effective date of this Ordinance shall provide off-street parking and loading facilities in accordance with the provisions of this Section.
2. Off-street parking and loading facilities shall be maintained as approved and continued as long as the main use is continued.
3. No owner or operator of any structure affected by this Section shall discontinue, change or dispense with the required parking and loading facilities without establishing alternative vehicular parking and loading facilities which meet the requirements of this Section.

4. No person shall utilize any building or use any parcel of land without providing the off-street parking and loading facilities as required by this Section, except when a building or use is legally nonconforming as to required parking.
5. When a permitted use is legally nonconforming as to required parking, and said use is enlarged, additional parking shall be required only on the basis of the enlargement of the permitted use. The additional parking shall meet all applicable requirements of this Section.
6. For commercial, industrial, and all attached and multi-family residential dwelling parking and loading areas, all parking areas, as well as all vehicular entrances, travel aisles and private streets leading into or connecting parking areas, shall be constructed of an all weather, stabilized, dust free surface (such as asphalt, concrete, or pavers) with curb, guttering and drainage improvements.

For industrial uses for storage and limited vehicular movements, paved surfacing may be waived by the Planning Commission only for areas used for the parking and/or loading of heavy equipment. Curb and guttering must conform to VDOT standards CG-2, CG-6, MC-3, MC-3B or their equivalent. The Zoning Administrator may permit alternative paving materials or designs for curb and guttering if substantial compliance with the VDOT standards can be shown.

7. Access by a vehicle to required parking spaces (other than single family detached dwellings) shall be afforded without requiring another vehicle to be moved.

#### **D. Size of Parking Spaces**

1. Parallel, on-street parking spaces shall have minimum dimensions of seven feet by 22 feet.
2. All other parking spaces shall have minimum dimensions of nine (9) feet by eighteen (18) feet, except as follows:
  - a. Spaces in a parking garage shall have minimum dimensions of not less than eight and one-half feet (8.5') by eighteen feet (18') feet.
  - b. The Zoning Administrator, as a part of the site plan review process, may approve spaces with minimum dimensions of eight and one-half feet by 18 feet for: (1) dedicated spaces for small cars, (2) vehicle storage lots for automobile dealers, (3) overflow parking areas and (4) other limited use parking facilities.
  - c. Angled and other forms of parking spaces: In cases where parking space and adjoining travelway dimensions vary from those above due to the nature of the parking areas and circulation patterns, the Applicant shall be required to submit a detailed parking study prepared by a qualified design professional to justify such parking space size variations. Documentation shall be provided addressing parking space geometry, travelway access and turning movements, and other elements related to parking space layout and design criteria.
3. Overhang over landscape areas shall not be counted toward the minimum dimensions stated above.
4. Handicapped spaces shall be provided according to the provisions of the Americans with Disabilities Act (ADA) and accepted site planning practices.

### **XXIII. Off-Street Parking and Loading**

## E. Calculation of Required Parking

In calculating the number of required parking spaces, the following rules shall govern:

1. The floor area or square footage of a residential or non-residential unit or building shall refer to the square footage of the gross floor area (SF GFA) of the specific use, measured in square feet from the exterior faces of exterior walls or from the centerline of walls separating two attached buildings. Unless otherwise specified, the square footage of gross floor area shall include associated corridors, utility rooms and storage space.
2. When the units of measurements determining the number of required parking spaces results in the requirement of a fractional space, any fraction less than one-half shall be disregarded, and fractions of one-half or over one-half shall require one additional parking space.
3. The parking space requirement for a use not specifically mentioned shall be the same as required for a use of similar nature, as determined by the zoning administrator.
4. In the case of mixed uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

## F. Minimum Number of Spaces Required

The minimum number of parking spaces required for land uses within the City of Martinsville is found in Table 23.1 of Section XXIII of this Ordinance.

## G. Maximum Number of Spaces Permitted

Commercial and institutional uses identified in Table 23.1, shall be limited in the maximum number of parking spaces that can be provided, in accordance with the following standards:

1. Except as otherwise allowed by this ordinance, commercial and industrial listed in Table 23.1 shall not exceed 1.25 times (or 125% of) the minimum number of parking spaces required in the table.
2. For any commercial or industrial use listed in Table 23.1 to exceed 125 percent of the minimum number of parking spaces required in the table shall require the approval of an alternative parking plan as provided in this ordinance.

## Minimum Off-Street Parking Requirements (Table 23.1)

Category	Land Use	Required Parking Spaces
Residential	Accessory Residential Dwelling Unit	1 per dwelling unit
	Dwelling, Duplex	1.5 per dwelling unit
	Dwelling, Attached	1.5 per dwelling unit
	Dwelling, Multifamily	1.5 per unit + 1 visitor space per every 5 units
	Dwelling, Single Family Detached	2 per dwelling unit; 1 per unit on infill lots
	Group Home (8 or fewer residents)	1 per 2 resident beds
	Group Home (9 or more residents)	1 per 3 resident beds
	Live-Work Residence	2 per dwelling unit
	Temporary Marketing Office for New Development	parking plan required
Civic	Artist Studio	1 per 300 sf
	Cemetery or Mausoleum	parking plan required
	Church or Place of Worship	1 per 6 seats in worship area
	Commercial Pool, Tennis, or Recreation Facility	parking plan required
	Community Garden	parking plan required
	Community Recreation Uses for Subdivisions Residents	parking plan required
	Conference Center or Performance Venue	1 per 300 sf or 1 per 4 seats
	Library	1 per 300 sf
	Museum or Historic Site	1 per 500 sf
	Private Club, Lodge, or Fraternal Organization	1 per 300 sf
	Public Buildings, Infrastructure, or Other Facilities	1 per 300 sf for gov. office; 1 per 600 sf for other gov. facilities
	Public Parks, Playgrounds, and Open Space	parking plan required
	School, College, or Academic Institution	1 per classroom + 10 for elementary or middle; 1 per 300 sf for higher
	Vocational or Trade School	1 per 300 sf
Lodging and Health	Assisted Living Facility	1 per 3 patient beds
	Bed and Breakfast Homestay	1 per guest room
	Bed and Breakfast Inn	1 per guest room
	Hotel or Motel	1 per guest room + 75% of spaces req. for on-site accessory uses
	Hospital	1 per 3 inpatient beds
	Medical or Dental Office or Laboratory	1 per 300 sf
	Nursing Home	1 per 3 patient beds
	Urgent Care Center	1 per 300 sf
Office and Personal Services	Banks and Financial Services	1 per 300 sf
	Catering Establishment	1 per 300 sf
	Day Care, for Children or Adults	parking plan required
	Dry Cleaning or Laundromat	1 per 500 sf
	Funeral Home or Mortuary	1 per 4 seats in main assembly room
	Gym or Health Club	parking plan required
	Movie Theater	1 per 4 seats
	Personal Services Establishment	1 per 300 sf
	Pet Grooming or Boarding	1 per 500 sf
	Professional Office Space	1 per 300 sf
	Tailoring, Alterations, or Shoe Repair	1 per 300 sf
	Veterinary Clinic	1 per 500 sf



## Minimum Off-Street Parking Requirements (Table 23.1)

Category	Land Use	Required Parking Spaces
Retail & Food Service	Alcoholic Beverage Retail Sales	1 per 300 sf
	Bakery of Other Specialty Food Store	1 per 300 sf
	Coffee Shop	1 per 200 sf incl. indoor and outdoor seating
	Convenience Store	1 per 300 sf
	Drug Store or Pharmacy	1 per 300 sf
	Grocery Store	1 per 300 sf
	Microbrewery or Tap Room	1 per 200 sf incl. indoor and outdoor seating
	Pawn Shop	1 per 300 sf
	Plant Nursery or Landscape Sales	parking plan required
	Restaurant	1 per 200 sf incl. indoor and outdoor seating
	Restaurant, Fast Food	1 per 100 sf for fast food
	Retail Sales Establishment	1 per 300 sf
	Retail Sales of Items Created or Warehoused On Site	1 per 300 sf of retail area
Commercial Services	Shopping Center	<60,000: 1 per 300 sf; >60,000 sf: 1 per 400 sf
	Artisan Craft Production	1 per 500 sf
	Contractor or Building Trades Workshop	1 per 500 sf
	Data Center or Call Center	1 per 500 sf
	Dry Cleaning or Laundry Processing Plant	1 per 1,000 sf
	Heavy Equipment Sales and Service	1 per 1,000 sf
	Hydroponic Agriculture	1 per 2,500 sf
	Lumber Yard	1 per 1,000 sf
	Manufacturing, Processing, and Assembly	1 per 1,000 sf
	Printing and Publishing Facility	1 per 1,000 sf
	Radio or Television Station	1 per 500 sf
	Research and Development	1 per 500 sf
	Repair Service Establishments	1 per 1,000 sf
	Warehouse or Self Storage Facility	1 per 2,500 sf
	Wholesale Food and Beverage Production	1 per 1,000 sf
	Wholesale Trade and Sales	1 per 1,000 sf
Transportation	Automobile Auction Establishment	1 per 300 sf of building area + 1 per 5,000 sf of outdoor display area
	Automobile Parking as a stand-alone use	N/A
	Automobile Repair and Service	1 per 300 sf
	Automobile Sales, including display lot	1 per 300 sf of building area + 1 per 5,000 sf of outdoor display area
	Automobile Salvage or Scrap Yard	N/A
	Car Wash	1 per 500 sf
	Motor Vehicle Storage and Impound	N/A
	Rail or Bus Transit Terminal	parking plan required
Industrial and Misc.	Truck Terminal or Shipping Center	1 per 2,500 sf
	Adult Entertainment Establishment	parking plan required
	Animal Experimentation and Testing	parking plan required
	Asphalt Mixing	parking plan required
	Blast Furnace	parking plan required
	Bulk Storage of Flammable Materials	parking plan required
	Coal or Wood Distillation Facility	parking plan required
	Concrete Mixing	parking plan required
	Extraction of Minerals, Sand, Gravel, or Quarrying	parking plan required
	Golf Course	3 per hole
	Slaughterhouse	parking plan required
	Metal Foundry	parking plan required
	Railroad Yard or Maintenance	parking plan required
	Soap Manufacture	parking plan required
	Tanning and curing of skins	parking plan required

## H. Additional Regulations for Residential Uses

1. Parking spaces and driveways may be constructed of a dust-less surface, including concrete, asphalt, brick or paving stones. Gravel or compacted stone may be approved for single family detached.
2. Parking spaces and driveways shall not occupy more than 30 percent of a front or rear yard area.
3. Parking spaces and driveways shall not occupy more than 15 percent of the total lot area for lots having a lot area of 20,000 square feet or less.
4. Parking spaces and driveways shall not occupy more than 10 percent of the total lot area for lots having a lot area of more than 20,000 square feet.
5. Parking shall be allowed only in driveways or parking spaces meeting these requirements, and shall be prohibited elsewhere on the lot.

## I. Procedures for Alternative Parking Arrangements

The Zoning Administrator is authorized to approve a plan for alternative parking arrangements for permitted and special permit uses in any zoning district. The Applicant may elect to submit a parking plan, supported by a parking impact study, that modifies the parking requirements of this Section in instances where it can be shown that parking, circulation, aesthetic, environmental, and other goals of both the property, and the City as a whole, can be fully met through an alternative parking arrangement.

An alternative parking plan may propose to provide: (1) fewer spaces than are otherwise required by this Section, (2) more spaces than are otherwise allowed by this Section, (3) a reduction in required off-street parking spaces when available on-street parking is located in close proximity within a public right-of-way or public parking lot, and (4) a shared parking arrangement allowing two or more independent uses or establishments to work together to meet their parking needs while reducing the total number of spaces required.

1. The Zoning Administrator may approve, disapprove, or modify the parking plan and parking impact study that provides for an alternative parking plan arrangement that includes waiver of the minimum parking requirements expressed in Table 23.1. An applicant may submit a request to waive the construction of up to thirty (30) percent of the parking spaces otherwise required. The applicant shall demonstrate through submission of relevant and appropriate data and information that, because of the location, nature, availability of public or on-street parking, or the unique character of the intended mix of uses, there is a reasonable probability the number of parking spaces actually needed to serve the development is less than the minimum required by this ordinance. The parking impact study shall be accompanied by a plan showing the location and number of parking spaces that will be provided, prepared by a professional engineer or a practicing professional traffic planner with demonstrated technical expertise in preparing such a study.
2. The Zoning Administrator may approve, disapprove, or modify the parking plan and parking impact study that provides for a number of off-street parking spaces in excess of the maximum number allowed by this ordinance. Requests to exceed the maximum number of required off-street parking spaces shall be accompanied by a proposed parking plan, including a parking demand study performed by a professional engineer or professional traffic planner with demonstrated technical expertise in preparing such a study. The purpose of the parking demand study is to provide data and

## XXIII. Off-Street Parking and Loading

supporting analysis in support of the applicant's contention that the maximum number of parking spaces required by this ordinance will be insufficient to serve the needs of the proposed development. In addition to the parking demand study, the requesting party may provide other relevant and appropriate data supporting his request.

3. Shared parking arrangements may be allowed between certain compatible uses (for example, office buildings with primarily weekday parking needs and churches with primarily weekend needs). In such cases, the Zoning Administrator may approve an alternative parking plan that reduces the individual parking requirements for two or more uses, through use of shared parking facilities. Shared parking analysis shall be based on ULI guidelines or other commonly accepted methods and, further, shall be guided by the following:
  - a. Shared parking spaces shall be located within 300 feet of the primary entrance of all uses served, and shall not be separated from such uses by an arterial or collector street, unless the shared parking area is served by an improved and signed pedestrian crossing. The shared parking and intended use such location serves shall be connected to such use by a continuous pedestrian walkway. Such pedestrian access shall be accessible to the handicapped and shall meet ADA requirements where feasible in the determination of the Zoning Administrator.
  - b. The right to use such property for parking shall be established by deed, easement, lease or similar recorded covenant or agreement, shall be approved as to form and content by the City Attorney and shall be recorded in the Clerk's Office.
  - c. The maximum reduction in the total number of parking spaces required for all uses, in the aggregate, sharing the parking area shall be 50 percent.
  - d. Should such off-street parking spaces become unavailable for use, an equal number of parking spaces shall be constructed and provided on either the primary site or by another off-site arrangement meeting the requirements of this Section. Failure to provide these parking spaces within ninety days from the date on which the use of the previously available spaces was terminated shall be a violation of this ordinance.
4. Applicants requesting to use shared parking as a means of satisfying the off-street parking standards must submit a proposed parking plan, including a parking demand study prepared by a professional traffic planner who is experienced in the preparation of such studies. The purpose of the study shall be to provide data and supporting analysis demonstrating the feasibility of the proposed shared parking facilities. The parking demand study shall include information on the size and type of the proposed development, the composition of tenants, the anticipated rate of parking turnover, and the anticipated peak parking and traffic loads for all uses that will be sharing off-street parking spaces. Additionally the requesting party may submit other relevant and appropriate data supporting the request.
5. If approved, a shared parking arrangement shall be described and made binding upon the all owners of record of the subject properties, within a written agreement prepared in a form suitable for recording among the City's land records. Recordation of the agreement shall occur prior to the issuance of any occupancy permit for any premises to be served by the shared parking. A shared parking agreement may be revoked only if all required off-street parking spaces are provided in accordance with the requirements of this Ordinance.
6. Design requirements and construction standards for on-street or other forms of alternative parking, where approved, shall be coordinated with the requirements of the subdivision ordinance. Subdivision ordinance waivers or modifications to related parking requirements may be considered at the time of project application and as otherwise provided in the subdivision ordinance.

## J. Off-Street Loading Spaces

Off-street loading spaces are subject to the requirements of the Zoning Administrator in conjunction with the review of a land use application subject to this Ordinance, provided that off-street loading spaces must meet the following requirements:

1. All off-street loading spaces shall be located on the same lot as the use served.
2. Off-street loading spaces may be provided cooperatively for two or more uses, as long as the contractual arrangements for the permanent availability of such spaces meet the standards set by the Zoning Administrator.
3. All off-street loading space shall be provided with safe and convenient access to a street. If such space is located contiguous to a street, the street side thereof shall be curbed, and ingress and egress shall only be provided through such a curbed driveway.
4. No off-street loading area shall be used to satisfy the space requirement for any off-street parking facilities, and no loading area shall be so located as to interfere with the free circulation of vehicles in any off-street parking area.
5. No motor vehicle repair work, with the exception of emergency service, shall be permitted in any space designated as off-street loading area.
6. All off-street loading areas, including aisles and driveways, shall be constructed and maintained with a dustless (concrete or bituminous concrete) surface, except as otherwise permitted for heavy equipment storage for industrial uses.
7. Signage design and placement for loading spaces shall be depicted on the site plan.
8. Off-street loading space dimensions and layout:
  - a. No commercial or industrial loading space shall be less than fifteen (15) feet wide and twenty five (25) feet long, provided that the depth shall be sufficient to accommodate the largest delivery trucks supplying the establishment and that loading space lengths for semi-trailer vehicles shall be not less than fifty (50) feet. Where more than one loading space has been provided and located parallel to the first, each additional space may be reduced to twelve (12) feet in width.
  - b. No off-street loading area shall necessitate maneuvering from a public right-of-way. No loading space shall be located in a front yard, except for industrial uses.
  - c. Off-street loading spaces shall not be located closer than forty (40) feet from the nearest point of intersection of the loading approach travelway with the public street right-of-way, provided that if such space is to access semi-trailer vehicles, then such distance be not closer than sixty (60) feet. In cases where an innovative site design application is employed in such a way as the impacts associated with the loading area may be properly mitigated with less loading area, a waiver of this requirement may be granted upon application to the Zoning Administrator.

## K. Drive-Thru Stacking Lane Requirements

1. Stacking spaces shall be required for any use having approved drive-through or drive-in-facilities.
2. Stacking spaces shall be a minimum of ten feet in width and eighteen feet in length, and shall be designed so as not to impede on- and off-site traffic movements.
3. Stacking lanes and spaces shall be separate from other circulation aisles and parking spaces.
4. Stacking lanes shall be separated from other on-site parking and circulation lanes by a raised median or other acceptable method to ensure the adequate channeling and safety of traffic movements.
5. Computation of required stacking spaces: The following minimum stacking space requirements shall be provided in accordance with the following schedule:
  - a. Eating and fast food establishments: Ten (10) stacking spaces, with distance as measured from the closest drive-through window
  - b. Car washes: Three (3) stacking spaces per car wash bay
  - c. Financial institutions: Eight (8) stacking spaces for the first drive-through window and four (4) stacking spaces for each additional window
  - d. Other uses: For uses not specifically provided for herein, the Zoning Administrator shall make the final determination regarding the number of required stacking spaces

## L. Handicap Space Requirements

1. Handicap parking spaces for the physically disabled or elderly shall be required at the rate of three percent (3%) of the first 200 parking spaces required for any use.
2. For uses which provide parking for more than 200 spaces, six (6) handicap spaces shall be provided for the first 200 parking spaces, plus one (1) percent of the required spaces in excess of 200 parking spaces.
3. All off-street parking spaces and related accessibility requirements for handicapped persons shall conform with the most recent Americans with Disabilities Act (ADA) regulations and as otherwise provided in this Section. Where ADA regulations are in conflict with or are more stringent than the regulations in this Section, ADA regulations shall govern. A copy of these ADA regulations is available through the office of the Zoning Administrator.
4. The Planning Commission, upon recommendation by the Zoning Administrator may modify handicap space requirements where the applicant can demonstrate fewer spaces are required and that ADA requirements are fully satisfied.
5. Perpendicular handicap parking spaces shall be 13 feet wide and 18 feet long, including a 5 foot width for the delineation of aisles for access to vehicle, provided that two handicap spaces may share the same 5 foot access aisle. Spaces shall be located as close as possible to the primary building entrance(s).
6. No more than four (4) handicap spaces shall be grouped together within a parking lot of shopping center or a land use where building entrance configurations dictate dispersed handicap space locations, as determined by the Zoning Administrator.

## XXIII. Off-Street Parking and Loading

7. Inclined access ramps shall be provided and designed to promote safe access from both sides of a vehicle directly to a sidewalk. Ramps shall have a minimum width of five (5) feet and a maximum slope of one unit vertical in twelve units horizontal (1:12), provided that if current ADA requirements for handicap space access are more restrictive, then ADA standards and criteria shall apply. These ramps should also provide suitable accessibility to vans.
8. All handicapped parking spaces shall be clearly identified by the placement of signs, with minimum height of four (4) feet and a maximum height of six (6) feet. Signs and parking spaces shall be marked with the standard handicap logo.

## XXIV. Proffers

### A. Purpose and Intent

1. **Proffers Defined.** Proffers are voluntary and reasonable conditions that may be offered only by a property owner in conjunction with a zoning map amendment (“rezoning”) application. Proffered conditions are intended to relieve land use issues and infrastructure shortcomings that may be directly attributable to a proposed land use that requires a rezoning action by the City. Proffers may be offered as improvements, in-kind contributions, phasing, dedications, or other eligible contributions. Proffers may address both on-site and off-site improvements.
2. **Authority for Proffers.** It is the purpose of this section to provide a procedure by which eligible proffers and conditional zoning may be employed where and when applicable in Martinsville in accordance with the applicable enabling legislation provided in Sections 15.2-2297, 15.2-2298, 15.2-2302.2, and 15.2-2303.4 as may be amended, and other sections of the Code of Virginia. It is further the purpose of this section to allow for complete and timely review and evaluation of the proffered conditions by the City Staff, the Planning Commission and the City Council.
3. **Acceptance of Proffers.** The City may accept the proffers and approve a conditional rezoning application, thereby approving the proposed use on the condition of compliance with the proffers. It is the policy of the City to encourage, but not require, proffers and conditions in cases where:
  - (a) the use of traditional zoning methods is inadequate to achieve the desired development objectives of the property owner or the City, and
  - (b) the proffered conditions will offset identified problems attributable to the impacts of the rezoning.

### B. Proffers: Must be Voluntary and Reasonable

1. **Proffers and Rezoning.** This ordinance includes and provides for the proffering in writing, by the property owner, of reasonable and eligible conditions (including improvements, dedications, phasing, and eligible contributions) in conjunction with a public hearing before the Planning Commission or City Council, in addition to the regulations provided for in the zoning district or other applicable zoning documentation by the ordinance, as a part of a rezoning, or amendment to a zoning map.
2. **Proffers Must Be Voluntary and Reasonable.** The key test for a proffer is (1) that it be reasonable, and (2) that it shall be voluntarily offered by the property owner/applicant. Refer to Section VII for specific requirements for zoning amendments and zoning amendment applications in the City.
3. **Approval, Acceptance, Denial of Proffers.** Proffers must be reasonable and reasonably applied in consideration of any zoning amendment. The City shall not: (a) request or accept any unreasonable proffer in connection with a rezoning or a proffer condition amendment as a condition of approval of a new residential development or new residential use, or (b) deny any rezoning application or proffer condition amendment for a new residential development or new residential use where such

denial is based in whole or in part on an applicant's failure or refusal to submit an unreasonable proffer or proffer condition amendment the need for which is not generated by the rezoning itself.

4. **Reasonableness Test for On-Site Proffer.** An on-site (or proffer condition amendment) offered voluntarily pursuant to § 15.2-2297, 15.2-2298, 15.2-2303, 15.2-2303.1, or 15.2-2303.4 of the Code of Virginia, shall be deemed unreasonable unless it addresses an impact that is specifically attributable to the application for a proposed new residential development or other new residential use.
5. **Reasonableness Test for Off-Site Proffer.** An off-site proffer (or proffer condition amendment) offered voluntarily pursuant to § 15.2-2297, 15.2-2298, 15.2-2303, 15.2-2303.1, or 15.2-2303.4 of the Code of Virginia, shall be deemed unreasonable unless it addresses an impact that is specifically attributable to the application for a proposed new residential development or other new residential use. An off-site proffer shall be deemed unreasonable unless it addresses an impact to an off-site public facility, such that:
  - (a) the new residential development or new residential use creates a need, or an identifiable portion of a need, for one or more public facility improvements in excess of existing public facility capacity at the time of the rezoning or proffer condition amendment, and
  - (b) each such new residential development or new residential use applied for receives a direct and material benefit from a proffer made with respect to any such public facility improvements.
6. **Eligibility for Acceptance of Cash Proffers.** Cash proffers may be accepted by the City at such time that Martinsville meets State statutory eligibility requirements. This will occur if and when the City achieves a five (5) percent decennial population growth based on the reporting of the U.S Bureau of Census and as otherwise conditioned by the 15.2-2298 or subsequent amendments thereto. As of the date of adoption of this ordinance, Martinsville does not meet the eligibility requirements for the acceptance of cash proffers. The City reserves the right to accept cash proffers at such time as population growth eligibility requirements or other statutory requirements have been met.

## C. Additional Definitions

For purposes of this section and in addition to those definitions provided in Section II of this ordinance, the following words and phases shall apply to the regulations for proffers in this section unless the context requires a different meaning:

### New Residential Development

Any construction or building expansion in the City on residentially zoned property, including a residential component of a mixed-use development, that results in either one or more additional residential dwelling units or, otherwise, fewer residential dwelling units, beyond what may be permitted by right under the then-existing zoning of the property, when such new residential development requires a rezoning or proffer condition amendment.

### New Residential Use

Any use of residentially zoned property in the City that requires a rezoning or that requires a proffer condition amendment to allow for new residential development.

## XXIV. Proffers



**Off-site Proffer**

A proffer addressing an impact outside the boundaries of the property to be developed and shall include eligible cash proffers.

**On-site Proffer**

A proffer addressing an impact within the boundaries of the property to be developed and shall not include any eligible cash proffers.

**Proffer Condition Amendment**

An amendment to an existing proffer statement applicable to a property or properties.

**Public Facilities**

Public transportation facilities, public safety facilities, public school facilities, or public parks.

**Public Facility Improvement**

An offsite public transportation facility improvement, a public safety facility improvement, a public school facility improvement, or an improvement to or construction of a public park. No public facility improvement shall include any operating expense of an existing public facility, such as ordinary maintenance or repair, or any capital improvement to an existing public facility, such as a renovation or technology upgrade, that does not expand the capacity of such facility. For purposes of this section, the term "public park" shall include playgrounds and other recreational facilities.

**Public Safety Improvement**

Construction of new law-enforcement, fire, emergency medical, and rescue facilities or expansion of existing public safety facilities, to include all buildings, structures, parking, and other costs directly related thereto.

**Public School Facility Improvements**

Construction of secondary public schools, to include all buildings, structures, parking, and other costs directly related thereto.

**Public Transportation Facility Improvement**

Public transportation facilities refer to the (a) construction of new City public roads; (b) improvement or expansion of existing roads and related appurtenances as required by applicable standards of the Virginia Department of Transportation, or the applicable standards of the City of Martinsville; and (c) construction, improvement, or expansion of buildings, structures, parking, and other facilities in the City directly related to transit.

**Residentially Zoned Property**

Property zoned or proposed to be zoned for either single-family or multifamily housing.

### Small Area Comprehensive Plan

The section or portion of the City's Comprehensive Plan, adopted into the Comprehensive Plan pursuant to Code of Virginia § 15.2-2223, that is specifically applicable to a delineated area within the City rather than the City as a whole. The terms "*small area plan*", "*urban development area plan*", "*urban sector plan*", "*urban service area plan*", "*corridor development plan*", "*corridor improvement plan*", or "*urban sector plan*" may be considered a Small Area Comprehensive Plan under this definition if such plans are duly adopted.

## D. General Criteria for Application of Proffers

1. Any applicant or landowner for a zoning map amendment (i.e. "rezoning") may, as a part of a rezoning application, voluntarily proffer reasonable conditions concerning the use, improvements, and development for one's property, including off-site improvements, in-kind contributions, or, cash contributions (upon meeting the population eligibility requirements of 15.2-2298 of the Code of Virginia) that may serve or benefit both the specific property and the public welfare.
2. Proffers shall only be accepted by the City Council as conditions attached to the rezoning if such proffered conditions meet the following criteria:
  - a. The rezoning itself must give rise to the need for the condition.
  - b. All such conditions shall directly benefit the development and the property subject to the rezoning request.
  - c. All such conditions shall serve to fulfill the goals, objectives, and recommendations of the City's Comprehensive Plan, and, further, shall be consistent with the City's adopted Capital Improvements Plan, Official Map, and other facilities and infrastructure planning documents, where applicable.
  - d. Such conditions shall be voluntarily offered, accepted by the City, and, further, capable of being readily and effectively enforced by the City of Martinsville in conjunction with the development of the property.
  - e. Such conditions shall be deemed reasonable, but necessary and sufficient to offset the identified infrastructure problems or public facility capacity deficits caused by the rezoning in a manner not available with traditional zoning methods.
3. This section shall be construed as supplementary to any existing provisions limiting or curtailing proffers or proffer condition amendments for new residential development or new residential use that are consistent with its terms and shall be construed to supersede any existing statutory provision with respect to proffers or proffer condition amendments for new residential development or new residential use that are inconsistent with its terms.
4. For the purposes of this section, the City may base its assessment of public facility capacity on relevant and current studies and calculations applicable to the projected impacts specifically attributable to the new residential development or new residential use.
5. The provisions of this section shall not apply to any eligible new residential development or new residential use occurring within any of the following areas:
  - a. An adopted small area comprehensive plan in which the delineated area is designated as a revitalization area, encompasses mass transit as defined in § 33.2-100, includes mixed use development, and allows a density of at least 3.0 floor area ratio in a portion thereof;

- b. An approved small area comprehensive plan that encompasses an existing or planned Metrorail station, or is adjacent to a Metrorail station located in a neighboring locality, and allows additional density within the vicinity of such existing or planned station; or
- c. An approved service district created pursuant to § 15.2-2400 that encompasses an existing or planned Metrorail station.

#### **E. Proffers for Eligible Contributions and the Dedication of Real Property**

1. In the event proffered conditions include the dedication of real property to the City (or eligible cash contributions as defined in Sub-section B.6 herein above), such contributions shall not be made or property shall not transfer until the facilities for which such property is dedicated to public facility or infrastructure are included in the City's adopted Capital Improvements Plan, provided that nothing herein shall prevent the property owner/applicant from offering to make acceptable and eligible proffered conditions which are not normally included in such capital improvement program.
2. If proffered conditions include the dedication of real property City (or other eligible contributions), the proffers shall provide for the disposition of property or other eligible contribution in the event the property or other conditional requirement is not used or employed for the purpose for which proffered within the statutory timeframe in effect as of the date of the rezoning.
3. Nothing in this section shall be construed to affect or impair the authority of the City Council to accept proffered conditions which include provisions for timing or phasing of dedications, or improvements, or to impose or accept conditions of conditional use permits where such conditions are consistent with State enabling statutes in effect at the time of the rezoning.
4. In the event proffered conditions include dedication of real property (or other eligible contributions) are not to be made until the facilities for which such property is dedicated are included in the Capital Improvement Program, the City Attorney shall advise the Planning Commission and the City Council of the adequacy of provisions securing to the City the timely performance of such conditions. Subject to limitations imposed by State enabling statutes in effect as of the date of acceptance of the proffer, such provisions may include bonding, letters of credit or other forms of surety.
5. Notwithstanding sub-section E. 4 hereinabove, the provisions of any eligible proffer offered or accepted pursuant to Code of Virginia § 15.2-2298, 15.2-2303, or 15.2-2303.1, for residential construction on a per-dwelling unit or per-home basis, the agreed improvements, dedications, or other conditions may be accepted by the City only after completion of the final inspection and prior to the time of the issuance of any Certificate of Occupancy for the subject property.
6. In addition to any other relief provided, the Circuit Court may award reasonable attorney fees, expenses, and court costs to any person, group, or entity that prevails in an action successfully challenging an ordinance, administrative action, or other action by the City as being in conflict with this section.

#### **F. Administrative Procedures**

1. The property owner or rezoning applicant shall submit a written proffer of conditions to accompany the rezoning petition. Refer to Section VII for specific requirements for zoning map amendments.

### **XXIV. Proffers**

2. Such written proffers, together with the title certificate, shall be submitted to the Planning Director as part of the application. In complying with the notice requirements, the Planning Commission and City Council shall state whether conditions have been proffered, and such proffers shall be made available for public review by the Planning Director as part of the public documents in the case.
3. Within thirty (30) days after receipt of a complete zoning application, the Zoning Administrator shall submit to the petitioner a written proffer analysis addressing the following items:
  - a. A list of identified problems or reasons, if any, where the proposed rezoning may be deemed to fall short of compliance or policy;
  - b. The degree to which the proffered conditions respond to the identified problems;
  - c. A list of those proffered conditions, if any, that do not respond to identified problems, are insufficient to offset them, or that are not in keeping with the criteria set forth in this section;
  - d. An indication of whether the identified problems will be adequately offset by the voluntarily proffered eligible contributions, dedication of real or personal property, or payment for or construction of off-site improvements and
  - e. The date of the Planning Commission hearing.
4. Submission of proffer statements:
  - a. A copy of the (i) applicant's written proffers and (ii) the proffer analysis from the Zoning Administrator shall be forwarded to the Planning Commission. The proffer may only be accepted when signed by the property owner or its duly appointed developer or agent.
  - b. Upon receipt of the proffer analysis, the petitioner may make subsequent voluntary changes deemed appropriate to the written proffers, provided that it is submitted no later than ten (10) calendar days prior to the Planning Commission public hearing.
  - c. Where an amendment to the written proffers provides for a dedication of real or personal property or construction of off site improvements, the Zoning Administrator may require that the amended proffers be submitted at least twenty (20) calendar days prior to the public hearing when additional time is deemed necessary to allow for adequate staff review of the sufficiency of such amended proffers.
  - d. Upon receipt of the amended proffers, the Zoning Administrator shall make them part of the public record. The Planning Commission shall not consider any proffer not made available for public review for at least ten (10) calendar days prior to the public hearing or meeting at which time the proffer statement is scheduled for review.

#### **G. Commission and Council Action on Proffered Conditions**

1. After holding a public hearing on the rezoning application, the Planning Commission, in taking its action on the application, may recommend from the following options:
  - a. recommend to the City Council approval of the zoning application as submitted,
  - b. recommend to the City Council denial of the application as submitted, or

- c. approval of the application with the deletion of one or more of the proffers in the application.
2. If the Planning Commission takes final action on a rezoning application, it shall require the applicant to (a) reduce all proffers made to the Planning Commission to a final written proffer statement in the proper legal form required by the City and (b) return the final proffer statement to the Zoning Administrator not more than ten (10) calendar days after the Planning Commission hearing for subsequent transmittal to the City Council.
3. The Planning Commission, upon the concurrence of the applicant, may defer action to a later meeting to further consider the revised proffers, provided that such revisions are submitted in proper legal form and are reviewed on the same time schedule as the original zoning application.
4. Upon completion of Planning Commission action on the rezoning application, the matter shall be forwarded to the City Council in the manner of all rezoning requirements. The City Council, in taking action on the zoning amendment proposal and proffers, may:
  - a. approve the zoning application,
  - b. deny the zoning application, or
  - c. consider modification of the proffered conditions for subsequent approval.
5. The applicant may add to, expand, clarify or otherwise modify the proffer statement in writing at the time of the City Council public hearing. Upon receipt of the modification of the proffer statement, the City Council may take any one of the following actions:
  - a. The Council may decline to consider the modification to the proffer statement as not timely filed and act only upon the application which was acted upon by the Planning Commission if it finds that the additional modifications do not alter the overall application sufficiently to warrant continued review or referral to the Planning Commission.
  - b. The Council may continue the hearing on the application to another hearing date, in which case the applicant shall be required to submit to the Zoning Administrator a final written proffer statement not less than ten (10) days before the scheduled hearing in order for the Council to act upon the application with the modified proffers. Nothing herein shall limit the Council's discretion to continue application to subsequent dates for further modification.
  - c. The Council may refer the modified application back to the Planning Commission for review and recommendation in accordance with the preceding sections.
  - d. At its sole discretion, the Council may waive the requirement for an additional public hearing or additional review by the Planning Commission if the proffer modification does not involve a change of land use or land use density.
6. If an applicant at any time modifies an application by deleting any provision from any proffer that has been reviewed and acted upon by the Planning Commission, the Council may refer the application with such modified proffer back to the Planning Commission for review and recommendation in accordance with the preceding section.
7. Subject to sub-section 5.d hereinabove, the City Council may also modify any proffered condition, but only with the concurrence of all parties to the proffers and only after a decision is made by the Council to conduct a new public hearing to consider the modified proffer. In such case, the modified proffer being submitted in writing to the Zoning Administrator at least ten (10) days prior to said public hearing.

8. The City Council shall accept only those eligible proffers that have been offered voluntarily and further reviewed and deemed acceptable in legal form, sufficiency and enforceability by the City Attorney.
9. No proffer may be modified or amended except in accordance with these provisions. After the effective date of this section, the City Council shall attach no conditions to nor accept any proffer with a rezoning except in accordance with this section.
10. Once proffered and accepted as part of an amendment to the zoning ordinance, the proffered conditions shall continue in effect until a subsequent amendment changes the zoning on the property covered by the conditions. However, the conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a City-initiated new or substantially revised zoning ordinance.

#### H. Recordation of Proffers and Amendment of Zoning Map

1. If the City Council approves the rezoning petition and accepts the written proffer, the City Attorney shall, within ten (10) days of the City Council's action, examine the appropriate records so as to determine whether any change in the interest in the property has occurred since the date of the title certificate. In the event that the City Attorney determines that no such change in interest has occurred, the City Attorney shall, within the said ten (10) day period, present the written proffer to the Clerk of the Circuit Court for recordation.
2. Upon recordation of the written proffer, the Zoning Administrator shall promptly delineate by appropriate symbol on the City's Official Zoning Map the existence of the written proffers and other conditional zoning considerations for the subject property. The Zoning Administrator shall maintain and make available for public inspection the full and complete records of written proffers.
3. If upon City Council approval of the rezoning petition and acceptance of the written proffers, the City Attorney determines that a change in interest in the property has taken place, and that, in his opinion, such change may adversely affect the City's interest in the proffer, the applicant shall be notified in writing that the proffer will not be recorded and that the City Council's action in approving the rezoning will be rescinded and void unless an appeal is filed for a hearing before the City Council within sixty (60) days of the date of the City Attorney's letter.
4. In the event that the applicant files an appeal within sixty (60) days of the date of the City Attorney's letter, the applicant shall be given the opportunity for a public hearing before the City Council. At the conclusion of such hearing, the City Council may, at its legislative discretion, permit the applicant a certain amount of time in which to correct the legal or procedural objection raised by the City Attorney or may rescind its earlier action in approving the rezoning.
5. If the applicant fails to file his appeal within the said sixty (60) day period or upon hearing an appeal the City Council acts to rescind its earlier action, the approval of the rezoning application shall be void.
6. In no event shall the zoning map be changed to reflect the City Council's approval of the conditional zoning application until the Zoning Administrator receives written notification from the City Attorney that the proffer has been properly recorded.

## **I. Legal Form of Proffer Statement and Title**

1. All proffers shall be in writing and shall be in a form suitable for recordation in the deed books maintained in the land records of the City of Martinsville.
2. No proffer shall be accepted by the City Council that has not received the approval of the City Attorney as to legal form, sufficiency and enforceability.
3. Each conditional zoning petition and proffer statement shall be accompanied by a certificate of title, prepared and signed by an attorney licensed to practice law in the Commonwealth of Virginia. The title certificate shall describe the property that is the subject of the petition and shall identify all parties having a recorded interest in the property, including legal and equitable owners and shall state the source of title or interest for each party.
4. The certificate of title shall state the latest date through which the applicant's attorney examined the title to the property, which date shall not be more than six (6) months prior to the date of the filing of the petition.
5. The City Attorney shall reject any certificate of title that, in the City Attorney's opinion, is incomplete or is otherwise insufficient from a legal standpoint.
6. The written proffer shall name as grantors all owners of the property and shall be signed by all such parties. In the event that the applicant for the rezoning is a contract purchaser, such purchaser shall also be made party to the proffer and shall sign same.
7. The foregoing provisions shall not be construed as limiting the authority of the City Attorney to require that any additional person, firm, association or corporation be made a party and sign the proffer, when, in the City Attorney's opinion, the inclusion of such person, firm, association or corporation is necessary to protect the City's interest.

## **J. Effect, Enforcement, Contested Action, and Remedies**

1. Once proffered and accepted as part of an amendment to the City's zoning ordinance, such proffered conditions shall continue in full force and effect until any subsequent amendment changes the zoning of the property covered by such conditions. However, such proffered conditions shall continue in full force and effect if the subsequent zoning amendment is part of a municipal action to comprehensively implement a new or substantially revised zoning ordinance.
2. The Zoning Administrator shall be responsible for recording and referencing on the City's Official Zoning Map the existence of adopted proffered conditions for individual properties. Any site plan, subdivision plat, general development plan, special use permit plan or other land use application thereafter submitted for development of property with proffered conditions shall conform with all of such conditions, and, further, in the absence of full conformity, shall not be approved by any City official or body.

For the purpose of this section, "full conformity" shall mean conformity which leaves a reasonable margin for technical adjustment due to introduction of final engineering and mapping data, but conforms to the general nature and intent of the development plat or plan, the specific uses, as well as the general layout depicted by the plans, profiles, elevations, and other demonstrative materials presented by the applicant's professional consultants.

3. In the event of an inconsistency between a specific written proffer and a graphic depiction upon an approved general development plan, the proffered text shall control.
4. The Zoning Administrator is hereby vested with all necessary authority to enforce such proffered conditions. Failure to comply shall be sufficient cause to deny the approval of (1) site plans, (2) subdivision plats, (3) zoning permits and/or (4) occupancy permits. In exercise of this authority, the Zoning Administrator may initiate action through the City Manager to:
  - a. issue a violation notice and correction order,
  - b. bring legal action to ensure compliance, including lien, injunction and/or abatement and/or
  - c. proceed with institution of criminal process.
5. No amendment shall be made to any accepted proffer except in the manner of a new rezoning application as set forth herein.
6. Any actions brought to contest the action of the City in violation of this section or State enabling legislation shall be brought only by the aggrieved applicant or the owner of the property subject to a rezoning or proffer condition amendment pursuant to subsection F of § 15.2-2285 of the Code of Virginia.
7. In any action in which the City has denied a rezoning or an amendment to an existing proffer and the aggrieved applicant proves by a preponderance of the evidence that it refused or failed to submit an unreasonable proffer or proffer condition amendment that it has proven was suggested, requested, or required by the City, the Circuit Court shall presume, absent clear and convincing evidence to the contrary, that such refusal or failure was the controlling basis for the denial.
8. In any successful action brought pursuant to this section contesting an action of the City in violation of this section, the applicant or property owner may be entitled to an award of reasonable attorney fees and costs and to an order remanding the matter to the City Council with a direction to approve the rezoning or proffer condition amendment without the inclusion of any unreasonable proffer.
9. If the City fails or refuses to approve the rezoning or proffer condition amendment within a reasonable time not to exceed 90 days from the date of the Circuit Court's order to do so, the court shall enjoin the City from interfering with the use of the property as applied for without the unreasonable proffer. Upon remand to the City Council, the requirements of § 15.2-2204 of the Code of Virginia shall not apply.



## XXV. Board of Zoning Appeals

### A. Purpose and Intent

The Board of Zoning Appeals (BZA) is established as a way to address certain conflicts or special circumstances that may arise in the application of this Ordinance to future development and redevelopment in the City. The primary responsibility of the BZA shall be to hear appeals of decisions granted by the Planning Commission, Zoning Administrator, or other applicable City staff related to the application of this zoning ordinance.

The BZA may also consider and grant variances to the application of this ordinance, in situations where, due to the characteristics of the property under consideration, an unnecessary hardship on the applicant will be created by the strict application of the Ordinance, and where the spirit of the ordinance can be otherwise maintained.

### B. Appointment of the Board

A BZA shall be established in accordance with Code of Virginia 15.2-2308 and other applicable provisions of law. The BZA shall consist of five (5) members, who shall be residents of the City, and who shall be appointed by the Circuit Court of the City. Members of the BZA shall be appointed for five-year terms, except that the original appointments shall be made for such terms that the term of one member shall expire each year.

Members may be appointed to succeed themselves. The membership of the BZA as constituted on the day prior to the effective date of this ordinance shall continue in office and be the membership of the BZA under this ordinance for the remainder of their originally appointed terms.

### C. Officers

Within thirty (30) calendar days after the commencement of a term of office of the BZA, the board shall convene at the call of the Clerk of the Circuit Court, and shall elect from its membership a chairman, and vice-chairman who shall preside in the absence of the chairman. The board shall elect a secretary, who may or may not be a member of the board. If the person is not a member then the secretary shall have no vote on the board.

#### **D. Procedures**

The BZA shall adopt such rules of procedure and regulations as it may consider necessary consistent with ordinances of the City and general laws of the Commonwealth. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, an indication of such fact.

Final disposition of appeals shall be by recorded resolution indicating the reasons of the board therefore, all of which shall be a public record. No final action shall be taken on any matter unless a quorum is present. A quorum shall consist of three (3) members.

#### **E. Appeals to the Board**

Any zoning decision may be appealed to the BZA by any person, firm or corporation aggrieved, or by any officer, department, board or agency of the City affected by such decision. Such appeal shall be made within thirty (30) calendar days of written notice of decision, by filing with the Zoning Administrator a notice of appeal specifying the grounds there-for.

The decision of the BZA shall be final and subject to an appeal unless the decision is not appealed within thirty (30) calendar days of the board's decision. The officer from whom the appeal is taken shall forthwith transmit to the board all papers constituting the record upon which the action appealed from was taken.

All applications shall be accompanied by the appropriate fee according to the current fee schedule. No application shall be processed until the fee has been paid, after which the fee is not refundable. The fee must be paid with each application notwithstanding the fact that a prior application pertaining to the same property has been denied. The fee shall not be charged for an application filed by the City of Martinsville or any of its departments.

#### **F. Public Hearings**

The BZA shall fix a reasonable time for a public hearing of an application or appeal. The hearing shall be advertised by a publication of a notice of hearing for two (2) successive weeks in a newspaper of general circulation in the city. The notice shall specify the time and place of hearing at which persons affected may appear and present their views, not less than six (6) calendar days nor more than twenty-one (21) calendar days after the second advertisement appears in said newspaper.

The BZA shall give written notice by first class mail to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected. The board shall decide an appeal within ninety (90) business days from the date the notice of appeal is filed with the board.

## G. Powers

The BZA shall have the following powers:

1. To hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made by the Zoning Administrator or other appointed officer of the City government in the enforcement of this ordinance or of any ordinance adopted pursuant thereto.
2. To authorize, upon appeal in specific cases, variances from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in undue hardship; provided, that the spirit of this ordinance shall be observed and substantial justice done.
3. To permit the modification of the automobile parking space or loading space requirements where, in the particular instance, such modification will not be consistent with the purpose and intent of such requirements. Such modifications shall not be made unless a report from the zoning administrator, concerning the particular case, is received and entered into the record of proceedings.

## H. Variances

In considering variance to this ordinance the BZA shall determine that the property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of the ordinance, or where by reason of the exceptional topographic conditions or other extraordinary situation or condition of the piece of property, or of the condition, situation, or development of property immediately adjacent thereto, the strict application of the terms of this ordinance would effectively prohibit or unreasonably restrict the utilization of the property.

The BZA shall also determine whether granting of the variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit of the ordinance.

No such variance shall be authorized by the BZA unless it finds:

1. That the strict application of the ordinance would produce undue hardship.
2. That the hardship is not shared generally by other properties in the same zoning district and the same vicinity.
3. That the authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

In authorizing a variance, the BZA may impose such condition regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest and may require a grantee or bond to insure that there is being and will continue to be compliance with the conditions.

## **I. Required Vote for Reversal of Decision**

The concurring vote of three (3) members of the BZA shall be necessary to reverse any order, requirement, decision or determination of the zoning administrator, to decide in favor of the applicant any matter which it is required to pass under this ordinance, or to effect any variance from the requirements in this ordinance.

## **J. Appeal of BZA Decisions**

Any person or persons, jointly or severally, aggrieved by any decision of the BZA, or any taxpayer, or any officer, department, or agency of the city within thirty (30) calendar days after the filing of the decision of the BZA in the office of the BZA, but not thereafter, may present to a court of record a petition duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of illegality, whereupon such decision of said BZA shall be subject to review as provided by law.